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LORD DARLING AND HIS FAMOUS TRIALS

THE RT. HON. THE LORD DARLING, P.C.
From the portrait by R. GRENVILLE EVES, R.P., R.O.I.

LORD DARLING and HIS FAMOUS TRIALS: An authentic

• • by EVELYN GRAHAM

With Coloured Frontispiece &
Twenty-Three other Illustrations

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PART ONE

LORD DARLING AND HIS FAMOUS TRIALS

CHAPTER ONE

Lord Darling

LORD DARLING has now been six years in retirement. To most people he is still Mr. Justice Darling, of the High Court of Justice, King's Bench Division. That is how this generation, at least, will remember him. Counsel who have pleaded before him, accused men who have frozen before him (or thawed, as the occasion sometimes permitted), jurors who have listened to his summings-up in many a famous case, newspaper-reporters, and idle folk and curious, who have crowded his court, from well to gallery, will not forget him lightly.

And those who have laughed longest at his glib jests have frequently wondered most. Because he was, and is, an "individual".

It is quite easy—and a pleasant task, too—to recall many figures on the Bench and at the Bar who, during the last thirty years or more, have stamped their personalities with insistence, and occasionally almost with violence, on the pages of contemporary history. There troop before me the imposing figures of the first Lord Coleridge ; of Lord Alverstone ; of Lord Russell of Killowen. Then, surely, there come Hawkins, Sir John Day, Baron Huddleston, Lord St. Heliers, Lord Justice Vaughan Williams, and Lord Bowen. Many others, at the Bar and destined never to ornament the Bench, march past. Among them one recognizes Sir Edward Clarke ; Frank Lockwood and Charles Matthews, to mention but a few. Not to have seen Sir Charles Russell use his snuff-box was to have missed a great deal. Not to have heard the courtly Inderwick, with the big whiskers, in the Divorce Court was an equal deprivation.

No woman, they used to say, knew how deeply she had been wronged till Inderwick opened her case.

They were all terribly alive and able—these men, but each had some speciality in appearance, in manner or method, calling continually for recognition and acknowledgement from their fellows and from the great public. Lord Coleridge had a "silver tongue"; Lord Alverstone was the Guy Livingstone of Bar and Bench. Sir John Day was the "flogging judge" (and much more besides); Vaughan Williams was the worst-dressed man in the Temple; Sir Edward Clarke was the prince of advocates. Frank Lockwood was a brilliant caricaturist and jester; Mr. Justice Eve was a van-dweller when not in the neighbourhood of the Strand, and so on.

But during recent years it would seem that marked individuality at the Bar and on the Bench has disappeared. Perhaps there was never any need for it, and it is not to be doubted that to-day Bar and Bench are highly efficient. Certain it is, too, that none of the distinguished men just mentioned sought individuality. The late Mr. Justice Kekewick woke to find himself famous on the day that *Punch* published the drawing of a child asking if she might have jam for tea because one of Papa's decisions had been upheld on Appeal. That fame was none of Sir Arthur's seeking.

The times are changed, and there was left stranded on the Bench, six years ago, a solitary "individual", Mr. Justice Darling. That seems to be the truth of the matter. He is gone now from the Bench and it is impossible to find one there to-day who will answer to the same description, in the strict meaning of the word. Mr. Justice Avory is sometimes in the limelight. Occasionally attention is focused upon Lord Hewart, the Lord Chief Justice; the Lord Chancellor has a beaming countenance, but that is only as it should be, and as the cartoonists would have it. At the Bar it is just the same. Fleet Street would say: "Good men all, but scarcely a headline amongst them." It is true. Difficult to understand. They still, we know, have personality or charm, or even both, but they are, for the most part, unknown to the busy world to-day. Our stipendiary magistrates have a far better "Press".

We can hear the young man in the Temple quoting Gautier at us:

"Vous croyez, Monsieur, que votre fabel est neuve! Elle est neuve a la facon due Pont Neuf." . . .

But we sadly shake our heads. Our story is new, and true, and original.

Lord Darling remains, then, in retirement, the last of the stalwarts, and it is proposed here and in subsequent chapters to say something of his brilliant career that may be of interest to the present-day reader and of a little use to the chronicler in the near future.

For hard facts and a beginning, he is the first Baron Darling (Sir Charles John Darling, P.C.), of Langham, Co. Essex, and a knight; Barrister-at-law, Inner Temple, 1874; Q.C. 1885; Bencher 1892. M.P. (C.) for Deptford 1888-1897; a Judge of the High Court of Justice, King's Bench Division, 1897-1925. He was a Member of the Royal Commission on King's Bench 1912, and President of the Committee on Courts Martial 1919. (It is not recorded that he sat through either of these important investigations, as Mr. Justice Day did through the lengthy Parnell Commission, without saying a word.) He was born on December 6th, 1849; created a Knight on November 25th, 1897; sworn of the Privy Council of Great Britain on December 21st, 1917, and created Baron Darling on January 12th, 1924, that is, in the year following his retirement from the Bench.

Lord Darling was the son of Mr. Charles Darling of Langham Hall, Essex, near Colchester. He married on September 16th, 1885, Mary Caroline, eldest daughter of the late Major-General Wilberforce, Harris Greathed, C.B., widely known in India as the brave and brilliant young officer who greatly distinguished himself throughout the seige of Delhi, and in later military service —by whom he had one son and two daughters. This lady died on November 5th, 1913. His heir is his son, Major Hon. John Clive Darling, D.S.O., 1916, late 20th Hussars, who was born June 15th, 1887, and has a fine Service record. He has published a little record for his old regiment and "The 20th Hussars in the Great War".

Lord Darling lives in London, in Kensington, near the Albert Hall. He spends a good deal of time abroad, with his daughter, Miss Diana Darling, in France and Spain and Italy. His connection with Langham, from which place he takes his title, is to-day of

a sentimental nature only. Before the conclusion of this chapter it will be explained how that connection came about.

In furnishing these bare details of Lord Darling's career it may be interesting to point out here that he was, after the retirement of the late Lord Gorell, the youngest, having regard to his age at the time of his promotion, of any of the then occupants of the Bench, having been only 47 when appointed in 1897. Lord Gorell was but 44 when in 1892 he ascended the High Court Bench (Probate, Divorce and Admiralty Division). When Mr. Atkin, K.C., was appointed a judge in 1913, he was 45, being then the youngest occupant of the English High Court Bench. In 1898, all these records were beaten, in anticipation, by the remarkable instance of the Hon. Sir Alfred Thesiger who, at the early age of 39, was appointed straightway to the Appeal Court. This appointment must be taken as exceptional, and it should be remembered that the young Lord Justice was a son of a former Lord Chancellor.

The extraordinarily bitter protest which ensued upon Lord Darling's elevation to the Bench—a protest probably unique, and particularly violent in the Temple—must be referred to in detail in another place. This generation knows nothing of it. It is doubtful if that generation knew what possessed the protestants. Surely, never did a criticized appointment turn out so amply justified.

The bare facts in an introductory biographical note of this kind would be incomplete without some account of the history of the subject's immediate family connections. There is no need nor space to delve deeply, yet it is difficult to resist the temptation to drop back some eleven hundred years. That is a long time, and no one bearing the brave name of Darling will take exception to the story of a little affair that scandalized his subjects when King Alfred was busily putting Britain to rights. It is a rare story and probably known to the very few to-day. In relating it, we respectfully refer Lord Darling and the reader to Horne's "Mirror of Justice," p. 296 of the French edition. There we are told that four and forty judges were hanged in one year, as murderers, for their corrupt judgements in the reign of King Alfred. Their names and offences are set out in that quaint work, and the incident puts the delinquencies of Bacon and Beaumont and Macclesfield in the shade. The list of the forty-four malefactors begins with Justice

Darling! *"Il pendist Darling, pur ees que il avait judge Sidulf a la mort pur la retreit de Edulf son fils, que puis l'acquitta del fait principal."*

A little difficult to follow, but Justice Darling may—on other grounds—have deserved his fate.

Apologizing for this digression we will take a jump of a thousand years to Charles Darling, of Haddington—a member of a Border family—who married Janet, daughter of James Traill, of Dirleton, N.B. He died at Dirleton and left a son, Charles Darling, who, being a Scotsman, naturally went to England. He was born on April 27th, 1806, and married in March, 1849, Sarah Frances, daughter of John Tizard, of Dorchester. She died in 1897—the year of Lord Darling's appointment to the Bench, her husband having died in June, 1862. Their children where Charles John, now Lord Darling, and William Littell, who was born in 1851 and died at Chippenham in 1891.

Langham is an interesting old village, finely situated above the River Stour, and not far from Colchester. Lord Darling was born in the Abbey House in that town, but was shortly after taken to Langham Hall where the family lived until his father's death some few years later. They must have been very happy days, passed, during an impressionable age, in this beautiful spot. The property belonged to the then one of the Baring family, whose agent Mr. Darling was. Langham Hall is a fine example of domestic architecture. It has been sold by Lord Ashburton and to-day belongs to A. Melsom, Esq., after changing hands three times.

The church at Langham is worthy of note. It is mainly 13th century work, with a 14th century chancel, in which are various floorstones to the Umfreville family, 1596-1681. The Umfrevilles did not live at the Hall, but occupied "The Valley House," where there is still a wonderful Tudor staircase. They have more recently been identified with Ingres Abbey, near Greenhithe, and opposite the training ship, the *Worcester*. The view over the Stour Valley from the Church and Hall is extensive and very attractive. It was from the Church tower itself that Constable painted his celebrated picture "The Vale of Dedham."

Mr. Charles Darling and his wife are both buried at Langham, and Lord Darling is greatly attached to the place. It is naturally teeming with memories of his boyhood, and this appears in some

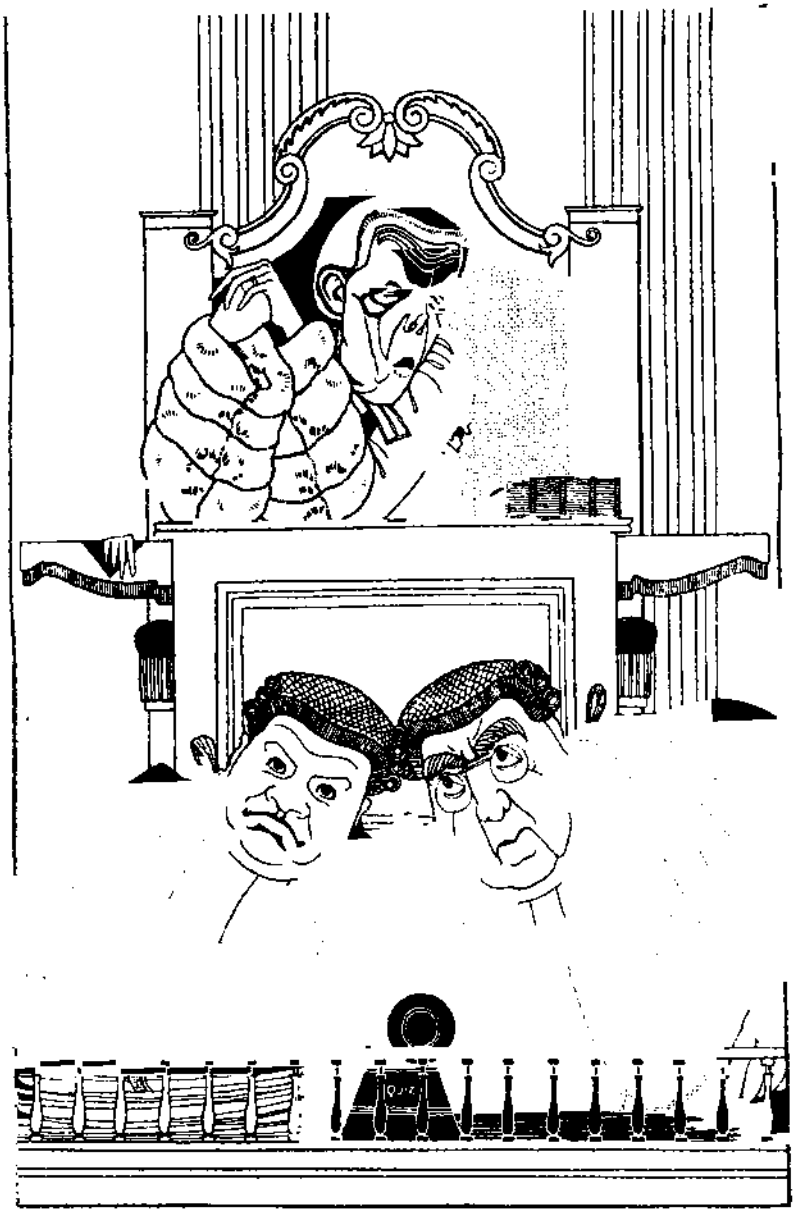
of his verses and occasional essays. His name is still to be seen scratched by himself on the lead roof—one of his earliest ventures in letters. In the Church are windows of his father, mother and brother.

So much, then, for Langham, that quiet home and first beginning whence the future judge was to set forth "out to the undiscovered ends."

The first thirteen years of one's life, spent in a lonely village in such a rural county as Essex—to this day, although so near London, it affords solitudes such as can scarcely be found in any other part of England—cannot fail to have left deep impressions on a boy's mind. Lord Darling has described his recreations as hunting and painting; both born, no doubt, of Langham days. The annual Bar Steeplechase helped to keep an enthusiast working in the Temple in touch with horse-flesh. Notable compeers of Lord Darling's in this respect were Lord Danesfort (J. G. Butcher, the popular member for Yorks) and the late Mr. Justice Bucknill, the sensitive and well-beloved "Tommy" Bucknill, a man hard as nails, who wept bitterly on the Bench when sentencing to death a brother Mason, the poisoner, Seddon.

Of Lord Darling's ability as a painter little is said to-day, but as a connoisseur of the arts he is highly placed, and has been an honoured Member of the Burlington Fine Arts Club. As a painter of pictures he may or may not be on a level with Mr. Winston Churchill, but as a judge of them he is, so far as the Bench is concerned, probably only second to the late Mr. Justice Day who, as an antidote to days spent in suppressing garrotings and other forms of robbery with violence by the imposition of severe sentences and flogging, took to the acquisition of choice examples of the then little-known Barbizon school of painting. This collection, including much of the best work of Millet, Corot, Diary, Harpignies, Daubigny, and others, was sold at Christies', soon after his death, for close on £120,000. The writer was present in the sale-room and well remembers the astonishment of brother lawyers, and of members of Sir John's family who accompanied him, at the sensational prices bid for tiny paintings whose merit had been so nicely observed by the sternest judge of men, not Art, in England.

But Lord Darling's real pleasure, in his retirement, must be in writing the delightful verses, and the gossamer-like stories that



MR. JUSTICE DARLING

SIR HERBERT AUSTIN SIR RICHARD MUIR

"Sweet Charles of the Old Bailey", a caricature by "Quiz"

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all too rarely fall from his pen ; or at any rate, all too rarely appear in print. They are matter quite apart from his earlier publications, which are too well-known to need detailed comment at this juncture, though it may be necessary to refer to them later. Suffice it now to recall them by title : "Scintillae Juris", "Meditations in the Tea-Room", "Seria Ludo", and "On the Oxford Circuit". "A Pensioner's Garden, and other Verses" belongs to his later work and style and was published so recently as 1926.

All too infrequently there appears in a London newspaper some trifle by Lord Darling, but what an exquisite trifle it invariably is ! A fairy tale with the breath of Provence hiding its structure in a scented mist ; wistful, far-away little stories.

"Of flower-soft thoughts that came to flower and fell," gossamer-like things written in essence distilled from the moss-grown stories of mediæval Europe. It must be pleasant to wander and write like this.

The reference made above to Lord Darling's pleasure in hunting calls to mind the existence of the Pegasus Club in the Temple, where, by the way, the flying horse is the sign or badge of the Inner Temple. It is this Club which has of course fostered horsemanship among London lawyers, and sponsored the famous Bar Steeplechase. And here, and in this very connection, it will be entertaining to examine the supporters to arms of Baron Darling of Langham.

Within a few days of my writing the above, Lord Darling, with his daughter, and granddaughter, was present at the Pegasus Club ball in the hall of the Inner Temple. He was in blue and buff of the Beaufort Hunt, distinguished from the pink worn by so many of the other members.

It is almost impossible to realize that Lord Darling is nearing the age of eighty years. He seems to be the embodiment of the sempiternal to those who know him well. It may be that he benefits by having no corners. Physically slim his is a smooth personality. That famous parliamentary lawyer, the late "Sammy" Pope, K.C., once said of Lord Loreburn : "He is the reverse of a triangle, because he has neither angle nor side." Surely, the same may be written of the subject of this biography, in spite of his trim figure.

But Darling, on the Bench, at any rate, had something else,

which was neither angle nor side. It was a quality, or characteristic, not easily defined. It was something one would not have looked for in the lad who traced out his name and his footprint on the lead of the old church tower and came, sixty-odd years after, to see if the mark were still there. And yet, why not? It was an attitude which told the sensitive observer; which told anybody, indeed, who was not a fool, that Lord Darling was thinking about him—in a glacial sort of way—and knew already most of what was worth knowing about him. One was never certain when his puckish mood—no description of this mood seems decently appropriate—would not give way before this searing process. A well-known Old Bailey counsel has recently told the writer that no one, unless it were, possibly, the late Lord Justice Bowen, could ever produce in him such a sensation of insignificance and utter impotence as could Lord Darling by merely looking at him, with eyes set deeply in that pale, thin, muscular face, and mobile, eloquent lips, a little open, as if to speak.

So far as slimness and figure go Lord Darling was undoubtedly the most dapper, trim, and smart occupant of the Bench of his day. It was refreshing to meet him riding in the Row, perfectly turned out—horse and man—and with the easy seat and light hand that told he belonged, not to the "liver brigade" but to the smaller band of those from their boyhood accustomed to ride to hounds—or to see him occasionally walking in St. James's Park, Pall Mall, or the Strand, in the glossiest of silk hats and the most perfect fitting of morning clothes, seemingly transcending Saville Row, black as a Jesuit priest and equally inscrutable.

Lord Justice Sankey has lately been suggesting that judges take advantage of their covering robes to fall into the habit of wearing old clothes. A number of lawyers immediately voiced their opinions that Lord Darling, at any rate, when he was a High Court Judge, was as dapper as might be, and wore a silk hat which was ever as bright as his wit. There have been many abominably dressed judges. Day was one. When a Queen's Counsel, overwhelmed with work, his long, old gown would trail the ground and his trousers would be invariably frayed. Lord Justice Vaughan Williams and Mr. Justice Eve and many others were equally careless. One may go so far as to remark that Lord Justice Sankey, while speaking on this very subject in Inner Temple Hall,

was himself wearing a coat of old-fashioned cut, buttoning high on the chest; worse still, he had on a light brown cardigan over his waistcoat. The Lord Chief Justice, in this year of grace indulges, too, in a cardigan, a *green* one. But he doffs the garment in the cloak-room at public functions, and believes a top hat to be indispensable for a judge out of doors in London. Mr. Justice Horridge wears a hard felt hat of the latest shape and is well-groomed. There is nothing to-day to remind one of the dreadful bowler hat always affected by that brilliant and kindly little gentleman, the late Mr. Justice Wills.

But the neatest and nattiest figure seen in the courts since Lord Darling deserted them, is that of Mr. Justice Avory. His clothes and hat could hold their own with any the former men wore, while the sheen of his "topper" vies with that of Mr. Justice Bateson.

It is not difficult in writing what might be called introductory matter to a biography of this sort, to omit, inadvertently, a brief notice of important phases while giving overmuch space to what, at first sight, may appear to be trivial, or valueless, gossip. But it is of the little things that a man's life is built up, and they are those which the seeker after biographical knowledge most avidly devours.

This, however, is no excuse for forgoing to touch upon the highly important subject, Lord Darling's Parliamentary career, and his world-wide reputation as a judicial wit.

With regard to the latter, this reputation has probably done him far more harm than good, and there are foolish persons, themselves ignorant of the first elements of psychology, who would confound the untameable ebullitions of a mind such as Lord Darling's with the merest buffoonery of a circus clown. It is better then that this subject be confined to a separate chapter later on. It is recognized as important, for there is no doubt that many persons have appraised this great judge and scholar merely as a wit, and that through the dangerous practice of reading absurdly abbreviated reports of cases which have come before him.

There remains to be given here the briefest possible sketch of his parliamentary career. He twice contested, unsuccessfully, South Hackney, in the Conservative interest, against Sir Charles Russell, afterwards Lord Russell of Killowen. During these cam-

paigns he attracted considerable attention by his speeches, his dainty energy and his cheerful way of dealing with hecklers. All this time he was busily building up a substantial practice at the Bar. His reputation as a sound—and brilliant—advocate and cross-examiner grew by leaps and bounds and his popularity was general.

In 1888 he contested and won a bye-election in Deptford in the Conservative cause against Mr. Wilfrid Blunt. He held the seat until his elevation to the Bench in 1897. Of a strange incident consequent upon this appointment something has already been said and more will be written in another chapter. A sketch of his activities in the House of Commons will also appear later.

It has been stated above that some, in his own profession, at any rate, were at times a little subdued under the critical radiations of the learned Judge. That many found him a pleasant companion, even on a first acquaintance, is quite certain. The late Colonel Repington, who knew more men and women of his day than an inveterate diarist, as he was, could ever cope with, records that in the afternoon of January, 24th, 1918, as he was writing, a telephone message came from Mr. Justice Darling to ask him to dine with him at the Inner Temple with the Benchers.

"I thought it," said Colonel Repington, "a sound thing to do to make friends with the heads of the law, so accepted, and passed a very agreeable evening. Darling has a keen, penetrating glance and an intellectual face. He has plenty of character and decision and is very human and broad. . . . The presiding Treasurer, I think it was, told me across the table that if I got into trouble, Darling, as the first puisne judge (whatever that may be) would try me. Darling himself advised that if they shut me up I should apply for a writ of Habeas Corpus and that if one judge refused I should go on asking others."

In conclusion, Colonel Repington remarks in his diary:

"I liked him very much."

CHAPTER TWO

A Biography

IN the earlier plans of the ancient town of Colchester may be seen, plainly marked, a residence called St. John's Abbey. It is to-day, however, known as the Abbey House. It is part and parcel of this fascinating old place, steeped in antiquity and breathing everywhere the tale of its historic past. The early Britons had a settlement where Colchester stands. A Royal mint was established there. In A.D. 44 came Claudius, and a Roman colony was the result. It was overwhelmed by the British, but the Romans came again and were long in occupation. Then the Saxons, then the Danes. Later came Eudo Dapifer, the Norman Lord with the pretty name, to whom the Conqueror granted Colchester. Dapifer built his castle there, repaired the walls and founded churches and other religious houses. And then—we must fain leave its story until 1849—then came Charles Darling, who was born in the Abbey House in that year!

It is agreeable, if only for the sake of euphony, to link the names of Dapifer and Darling. Both fall so prettily from the lips. Moreover, Lord Darling has been a "feast-bearer" most of his life, carrying wit and rhyme and reason to all and sundry in his path.

Colchester was not to know how momentous an event for the town was the birth of this infant, whose parents had not been long in the neighbourhood. But, in common with his admirers, both here and in America, it will probably appreciate at this stage a little general information as to his antecedents and his early days in Essex.

One might easily suspect that either his father, or his mother, or both, had been of French descent, for there are a daintiness and a *finesse* in his manner and in his physical "make-up" never associated with the average Britisher born. And surely enough, one finds that his mother was one of the well-known family of Dorsetshire farmers, the Tizards, of French, probably Hugenot, extraction.

Later generations of this good old family must have been well known to Thomas Hardy; while the story goes that the earlier were not innocent of the art and adventure of smuggling—a romantic form of lawlessness calculated to temper the severity of a distinguished judge caring to recollect that it had been a family failing.

Charles Darling's father, however, as has been already stated, was a Scotsman—not a Highlander, but a Lowlander, with the fair complexion and blue eyes of the Scandinavian type, still to be found in the Border country.

About 1824, there died in his official residence at Kensington Gardens, William Forsyth, who, coming to London from Aberdeen in 1763, left England, as a legacy, the precious *Forsythia Suspensa* (and doubtless other varieties of the same plant) and became in the fulness of time superintendent of the Royal Gardens of St. James's and Kensington. Soon after his death, Charles Darling *père*, stimulated as likely as not by Forsyth's successful example, came south to accept a position in Kew Gardens. Hard-working, and the happy possessor of a character that inspired confidence, he soon passed to positions of greater and higher responsibility, and we find him shortly managing land and estates in Dorsetshire and Hampshire.

Of all that pertains to this robust, open-air life we imagine Lord Darling inherited little beyond his well-known love of horses and hunting which had been handed down to his father by his Border ancestors. Nor did he inherit the bigness of figure, the fair hair and the blue eyes. There, however, in his slight frame and dark eyes is revealed the ancestry of the French-descended Tizards. Else, had not Lord Birkenhead been able to say of him on some occasion: "He looked like a very delicately fashioned cameo . . . he compelled everyone to listen, partly by an innate and rather exquisite personal distinction, and partly by some very attractive quality in his voice." Nor would one often have felt, as has the writer, that given a rapier and a snuff-box he might have stepped straight out of the pages of Thackeray's "Esmond".

It was soon after his marriage to Miss Tizard that Charles Darling, the elder, gave up his estate-management work in Hampshire and went across country to Colchester to manage other estates and to take up farming on his own account. He went, as we have

seen, to live at the old house then known as St. John's Abbey, and now called the Abbey House, where the future judge and his brother were born.

The youthful Charles was extremely delicate and a source of constant and grave anxiety to his parents. How frequently this is the case in the childhood of hard-worked men who have lived to pass the three-score-years-and-ten post like two-year-olds need not be insisted on here. It is inexplicable, but it is manifest enough. We need only say that in those early days Mr. and Mrs. Darling did not think the child would live. His feeble health isolated him from other children and as a consequence he played alone for the most part, and had about five times as much opportunity for concentrated thought as the youngsters around him, and this means a great deal to one so situated who manages to survive. He could not go to school, but when he was well enough a master in the neighbourhood would come to give him lessons. While very young and before the family moved to Langham Hall, his chief playground was the Abbey garden, where the very rockeries were fashioned of broken stone, parts of corbels, cusps and gargoyles, carved by devoted hands in mediæval days. This early environment undoubtedly left an indelible impression on the boy. Then, too—and again, as is only natural—young Charles was an omnivorous reader, and full of curiosity concerning the things about him; but his boyhood's adventures had generally to be enjoyed vicariously from between the covers of the books he read.

Lord Darling, it may be insisted on here, is a shining example of the hardly recognized truth that great learning has little if any *direct* relationship to attendance at school and college (he was never at the 'Varsity) but is acquired independently, and of the student's own volition. That Ruskin should have said there are very few people in this world who get any good by either writing or reading is an amazing thing. But Lord Bacon said the exact contrary. Lord Darling must have gained outlasting benefit from reading as well as from writing, and a knowledge of the classics and French literature and mediæval history was never acquired by mere study. Moreover, as has been wisely said, education begins the man, but reading, good company, and reflection must finish him.

The Darling family, after a few years, moved from Colchester to Langham Hall, in the village of that name not very far distant. This pleasant spot has already been briefly described. There the father continued farming and estate management until his death, when young Charles was twelve years of age. Then the farm had to be given up and big changes came about. It was decided that a relation of his father's should undertake the boy's education and launch him in the world. A few uneventful years passed, linking the momentous future with the happy Langham days—uneventful years, during which it is certain the lad, though innocent of intensive education, must have crammed himself with a detailed host of knowledge. Yet he never seems to have displayed any particular ambition towards aiming at, or reaching, any particular goal. He was quite indifferent as to what his career was to be, and as a solicitor's office seemed as good to him as anything else he was duly articled to a firm at Birmingham.

This apparent indifference to the immediate future does not appear to have resulted from anything lackadaisical in young Darling's composition. Rather is it likely that he was finding the world so interesting that the time for calling a halt to the "looking around" period was never very obvious to him, until at the early age of forty-seven he was raised to the High Court Bench. Then, indeed, he began to take himself very seriously; but even then he did not cease to "look around".

Long after he had left the solicitor's office for the Inner Temple and the Bar, and even after he had entered Parliament, his already promising career seemed on analysis somewhat aimless. His learning and his knowledge of the world were increasing. The reception accorded to his brilliant little work "Scintillæ Juris", published anonymously though it was, may have seemed to him enough to go on with, as it were. His friends on the Oxford Circuit knew who S . . . N . . . G. was, and he enjoyed his fame, we may be sure. Throughout this period his attitude reminds one strongly of a verse out of his own beloved Béranger, that delightful singer whose note is too seldom heard to-day:

Pour être plus sûr de lui plaire
Je me voudrais voir une cour.
D'ambition je n'en ai guère;
Mais j'ai beaucoup, beaucoup d'amour.

Love of the world and life, of course ; love of life and of attracting those living it alongside of him. He loved later his duties on the Bench, and half his witticisms were, one may be sure, born of the sheer delight in saying something very amusing. We have scarcely ever read an article or a verse by Lord Darling which does not betray this happy side of his character.

Young Darling's uncle's beneficence was of a very real and practical kind. The delicate youth was allowed, to all intents and purposes, to choose his own way in life. He worked very hard and read a great deal. But he had not shed his childhood's weaknesses and his health broke down badly. He left the solicitor's office, and like many others before him and since, while changing his profession did not abandon the Law. He went to the Temple —a pleasant change for an imaginative youth—and after eating his dinners at the Inner Temple for three years, was called to the Bar at the age of twenty-four.

There followed, now, an uncertain period, one might almost say a period of flux, or rather of drifting with the tide. He flirted with journalism and played lightly with politics. His love of letters was already manifesting itself and the marvel is that he did not drift from the Temple into Fleet Street altogether, as scores of other men have done and are doing, even as many leave Fleet Street for a successful career at the Bar. But Darling was not badly off and the waiting for briefs was not for him the tragedy it is with some. It was not, however, until his uncle completed his career of benefactor by leaving at his death a comfortable fortune to the family whom he had so befriended that the young barrister embarked upon a rather more serious pursuit both of politics and the law.

Even now, however, versifying and writing brilliant little articles occupied a great part of his time. Like some literary lapidary he would cut and polish and repolish his lines, and bring out new and revised editions of his "Scintillæ Juris"—that little work that really seemed to epitomize his whole career for a number of years. He was greatly praised for it by those who knew him to be the author, and these were many.

There was, of course, grave danger lurking in all this. It was perfectly true what a critic wrote concerning it at the time one of the latest editions of the "Scintillæ" was published. "In

England ambitious lawyers recognize at an early stage in their career that a taste for letters must be concealed or repudiated under the penalty of complete failure." Darling might have pointed out in reply that he wrote anonymously in those early days; that Sir William Blackstone was a shining example to the contrary of this dictum, or that the tradition of the literary lawyer had been maintained by the late Lord Justice Bowen.

Certain, however, it is that his joy in words served him in very good stead long after, when delivering those remarkable judgements which showed never a syllable too many or one out of place. To hear Mr. Justice Darling passing sentence on a convicted criminal was indeed a strange experience for the exhibition it afforded of a perfect choice of words to meet the occasion. Stern, almost to fierceness of countenance; that wit, which always had its origin in a deep and roving humanity, laid right aside, he would address the sorry figure in the dock before him in words as perfect as if selected by a Dr. Johnson.

But the "immense vast volumes of our Common Law" have succeeded very little in subduing a mind so resilent and a heart so warm. Lord Darling is still *very* young. Yet how long ago it is since he came to talk and walk and study beneath "those bricky towers" of the Temple, beloved of all good lawyers. If we remind ourselves that he was called to the Bar in 1874 we can indulge in the interesting reflection that the building of Street's Law Courts in the Strand was only begun in that year, and that for another eight years, or longer, lawyers had need to journey to Westminster Hall to conduct their business. A year or so earlier and he could, had he been so inclined, have caught perch in the still shallow waters of the Thames at the foot of Temple Gardens, for the Victoria Embankment only recently had come to put the river in chains, and anglers had not finished their chorus of abuse for Bazalgette who had deprived them of their sport, up and down stream, and brought about the closing of the numerous fishing-tackle shops around Hungerford Market and in the narrow streets of Whitefriars and Blackfriars.

No doubt, though, Darling cherished the Temple, even as he found it, with its new Embankment railings and its many new blocks of chambers of hideous design, striving to this very day—happily, thank God, without success—to ruin the charm of their unmolested

neighbours. The famous Church, too, had suffered terribly in the unrighteous cause of repairs and restoration. But probably no tears were shed, for those days were not these days, although William Morris had already written to the *Athenæum* his famous letter on Tewkesbury Abbey which first awoke England to the spoliation going on in her midst.

Apart from this æsthetic business, however, Lord Darling would himself remind one that though the Knighthood of the Temple of Solomon is long since passed away, the spirit of Championship still abides in and about these courts and gardens:

> The Knights are dust, their good swords rust,
> Their souls are with the Saints, we trust.

"But yet there are those in the Temple, of whom I long was one, whose business it is to defend such as on their journey from the cradle to the grave may be molested by thieves and men of blood. Alsatia itself was just outside the Temple, and a Templar may be excused for seeing in the gate which separates Whitefriars from King's Bench Walk an allegory as well as a barrier."

The above are Lord Darling's own words, culled from an article written by him a year or two after he retired from the Bench. He must, indeed, as a youth, too, have loved the place and taken benefit from it as many of us have. "Even now," he writes in conclusion, "as one walks through the Temple, it is not hard to persuade oneself that Sir Walter Raleigh—whose Arms are blazoned in the magnificent Elizabethan hall of the Middle Temple—may loiter there yet with the shades of Evelyn and Plowden, and one other, more faithful to the spot than any one beside, Charles Lamb, whose birthplace was here, whose heart was here, and who says of this Temple: 'Indeed, it is the most elegant spot in the Metropolis. What a transition for a countryman visiting London for the first time—the passing from the crowded Strand or Fleet Street by unexpected avenues into its magnificent ample Squares, its classic green recesses. . . .'"

And the Temple remains the Temple, in spite of all that has been done, and is doing. Lamb would have no difficulty in recognizing it.

CHAPTER THREE

Law and Journalism

CLOSELY to follow Charles Darling's career, from the date of his "call", in 1874, till his accession to a comfortable fortune some time later, is an interesting pursuit, but it must be confessed it affords little or no indication of the brilliant future that was in store for this very young man.

As a practising barrister, indeed, Darling could never be correctly described as a "star turn", not in London, at any rate. On the Oxford Circuit, it is true, he soon built up a considerable reputation. But there were barristers in those days, even as there are now, who would inevitably be briefed on one side or another in every sensational case that was possessed of real public interest. The ordinary citizen who reads his newspaper in the train, but does not know the Temple from Smithfield Market, would have no difficulty in reeling off half a dozen, or more, names of the elect, as the little band is constituted to-day. So it was in Lord Darling's youth ; but they would not have found his name in the group. Perhaps he took silk a little too early ; often a risky thing for a junior not too firmly established ; but he was a young man always in somewhat of a hurry, and he crowded a lot into one momentous year, 1885, when he married, took silk, and contested South Hackney in the Conservative cause. He was then thirty-five, not young to be married ; certainly young to be called within the Bar, and *youngish* in *those* days for Parliamentary ambitions.

It is probable that he spent more time than was supposed in legal studies for it has often been admitted that on the Bench he proved to be at all times a sound though not pedantic lawyer. It was he, himself, who spoke on some occasion of his admiration for the Common Law of England, "than which I know no better, although I fear I know not above one half of it."

But many greater lawyers might echo this sentiment with considerable truth.

There is a story, possibly apocryphal, but none the less charac-

teristic for all that, that Mr. Augustine Birrell playfully criticized in conversation with Darling his sensational elevation to the Bench, and that the latter replied: "Well, I can read and write; what more do you want?"

With regard to legal study it should be remembered that there were no examinations for the Bar when Lord Darling was called. He read in the chambers of Mr. John Welsh, special Pleader, and in the chambers of Mr. J. O. Griffiths, Barrister, and on their certificates of his fitness was called to the Bar in 1874.

It was on November 17th, 1885, by the way, that Mr. Darling received an intimation from the Lord Chancellor's Office in the House of Lords that he had been recommended to Her Majesty for the rank of Queen's Counsel. His election address was dated on the second day of the same month. He had married Miss Mary Caroline Greathed of Whitfield, eldest daughter of the late Major General Greathed, C.B., R.E., on the 16th of the previous September.

What a field of rich promise lay spread before these happy young people!

There is ample evidence that Lord Darling enjoyed those early days on Circuit, and at Quarter Sessions (where, it used to be said, he developed a certain special talent for defending poachers) and sometimes in the Law Courts, at Westminster. His precocious view of the Sessions and the County justices shows itself in his sponsorship of the sentiment that to Quarter Sessions the young barrister goes to learn the law of the land by giving lessons in it to those who administer the one by virtue of owning the other.

But the scope of his legal practice must in the very early days, when making a little money quickly was still something of a necessity, have been narrowed rather by his journalistic activities. He was never a fully-fledged journalist in quite the same way as were Roundell Palmer, afterwards Lord Selbourne and Lord Chancellor of England, or Richard Muir or Lord Hewart, Lord Chief Justice of England at the time of writing. But he did far more writing than is generally realized. He wrote, nearly always anonymously, occasional notes, critical essays and topical verse.

And in this connection the following is worth quoting from an unsigned note of reminiscence which has fallen under the writer's notice: "Years ago Sir Charles spent many hours in an untidy

office in Northumberland Street. He may remember the two chairs, the single ink-pot and the scratching of his companion's pen. There were no tidy brief-boxes, no tidy clerks in that office; but untidy printers' boys waited at the door for copy. And the copy produced by Mr. Darling, Q.C., as he then was, was as good as any man's. He had fallen in with a brilliant but insufficient staff; Cust was just setting the *Pall Mall* into its stride, and often a 'leader' needed writing when there was no leader-writer on the premises. Mr. Darling obliged! Nobody, outside the office, knew then, and nobody knows now, the things he wrote; but the back numbers of the 'P.M.G.' contain, for him, at least, the evidence of one of the more amusing episodes that have befallen him in the Street of Adventure."

Staunch Tory as he was, we even find him contributing verses to the Radical *Westminster Gazette*.

The brilliant and popular *St. James's Gazette* is long since disappeared, merged in the *Evening Standard* when that paper changed its large folded sheet size to *something of the magazine form* which it bears to-day.

Parenthetically, there is no occasion for surprise in finding Darling writing for the *Westminster Gazette*, for years later we have the fighting Tory of Deptford collaborating with and taking much joy in the companionship of Frank Lockwood, the earnest Radical of York. What a pair! What days! Dainty and debonair, the one; burly and debonair the other. The pen of the one his rapier, and the pencil of the other (Lockwood drew with the line of a Leech-Thackeray combine) his broadsword. The lightly spoken words, the verses and the caricatures of these two witty men, were precious things even in an age when the spoken word was usually far more acceptable to the listener than it is to-day. A dull age, it has been styled. Dreadful days to have lived in, mumble our young people to-day—bright young nocturnals who know as much about the history, ancient or modern, of their country as a sloth or a lemur does of clock-making.

Yet, to be fair, it is possible to find even such a precocious young man as Charles Darling clinging to traditions and slavish adherence to form and cult upon rare occasions, and we are not referring to politics here but to matters in the freer field of art. It is possible, of course, to have detested and scoffed at Whistler, for

example, when first that eerie genius shone above the horizon, yet it is difficult to believe that Lord Darling to-day would write of his work as young Darling did in 1878. He, Darling, was then 29 years of age, and some might think, old enough, as a clever man, to have recognized the change that was coming over modern painting. The Pre-Raphaelites had by that time been accepted, and even understood. Ruskin had had, or was about to have, his row with Whistler, and Darling entered the lists with an anonymous contribution to the columns of *Mayfair*, on May 21st, 1878. It was entitled "The New School," by an Old Boy, and is worth quoting at some length:

"I strolled down Bond Street, 'twas on Tuesday last,
Entered the Grosvenor Gallery, and there
Beheld such sights as seldom mortals see,
And angels never, as I hope, poor souls!
What means he, Whistler, by these 'harmonies
In blue and silver', these strange fantasies
In oil and vinegar, and blue and starch?
Who is the lady whom he dares to name
'Arrangement' adding too, 'in blue and green'?
What, save an eye contused a week ago,
Is 'variation, green and flesh colour'?
Is this 'nocturne' another name for fog?
Or does it mean a canvas spoiled by damp

"'Tis a new school, they tell me, this, that paints
The frames and almost leaves the canvas bare;

"I turned to Lawson's 'Garden', Millais's 'Twins',
Tadema's 'Cherries', which I nearly ate,
To Tissot's 'Crocquet', and to Herkomer,
Not learnèd yet to make 'nocturnes' of gold,
Or hammer pewter into Perseus.*"

In other words, Charles Darling, for all his erudition, was in 1878 a member of the "I know what I like" school of painting, and quite possibly of the other arts. There must have been dozens

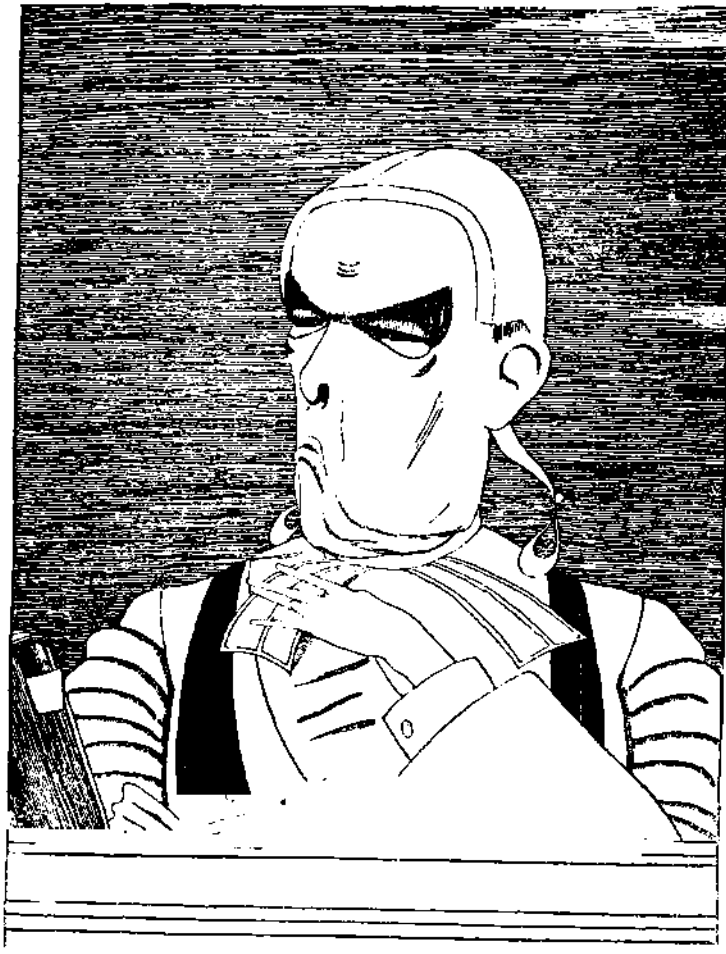
* A reference to Burne-Jones's work.

of clever men at the same time in the same position, and many may remain true to their opinions to this very day; though it were difficult to imagine Lord Darling, in this year of grace, holding up Whistler's nocturnes to ridicule. Everything, however, takes time, and while scarcely a soul lives to-day but delights in Wagner's "Tannhauser" (unless he finds it pathed with cloying, hackneyed melodies) there remain plenty who have tried for half-a-century honestly to appreciate the "Parsifal" and cannot; but, who, given another fifty years, would certainly do so, and be found asking, with open mouths, for more.

Here, however, has crept in, maybe, a longer digression than the subject-matter justified. The excuse is offered that nothing is trivial in tracing the career, step by step, of one who climbed to so considerable a height on the ladder of success and popularity as has Lord Darling.

Mention was being made of how his first steps in the legal nursery were assisted or retarded, according to the views one cares to take, by early flirtations with journalism; and here it may be just noted in passing that Darling's rather crude and unsophisticated criticism of Whistler appeared a year after the publication of the first edition of his brilliant little work "Scintillæ Juris," a work far removed from daily or weekly journalism, of which a good deal has been already said and more remains to be told. The dates are only compared here because it seems impossible (looking backwards fifty years) to realize that the destructive criticism of Whistler's work could have been written by the same hand that penned the brilliant "Scintillæ". The truth, of course, is that the two have not the slightest relation to one another and that the former could never have been considered stabilised by mere facts of publication.

Mr. E. T. Raymond has roughly translated the title of "Scintallæ Juris" as "Legal Sparks, by One of Them". Certainly in those days, he was the youngest-looking and best-dressed man at the English Bar. The same writer has described the book as a sort of classic of legalistic waggishness, a juridical Joe Miller. With this established in his mind Mr. Raymond very naturally recalled that George Eliot, in discussing the "diseases of small authorship", mentions a lady whose whole life was influenced by the fact that she had written a book on the Channel Islands, in which she had revealed herself (to quote the reviewer) as "a political philosopher



MR. JUSTICE DARLING
A caricature by "Quiz"

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in Guernsey, an economist in Jersey, and a humourist in Sark." From that time onwards the existence of this clever person was spent in trying to live up to her reputation.

But it must be submitted here that neither Mr. Charles Darling nor Mr. Justice Darling ever found much difficulty in living up to his early reputation, whether as a wit or wag, or as an extremely clever young man in the ordinary sense of the phrase. There were, indeed, occasions when he disdained the attempt, but not because he was dismayed in any way by the prospect. He has even been known to command sternly from the Bench that the laughter in Court following a remark from him, not intended to be amusing, should immediately cease. His demeanour after taking his seat in the House of Commons, even as it was for some time after his elevation to the Bench, was to the disgruntlement of the more careless organs of the Press, severe and almost studiedly glum. But this all belongs to another place in this story.

Lord Darling has very occasionally alluded in public to his early days spent as a journalist. As a guest of the London District of the Institute of Journalists at its Annual Dinner in December, 1923, he proposed "The Profession of Journalism". Refering to his then recent retirement he remarked that he had only been in a position during the last few days to dare to come to such a gathering. "For me and any power I have," he added, "Pentonville might be empty." Forty or fifty years ago, he said, he wrote occasionally for newspapers, such as the *St. James's Gazette* and the *Anti-Jacobin*, which did not exist to-day. He did not mention the many others to which he often contributed. Mr. Gladstone, surely, had reason in his day, to know that Charles Darling had written for *The Times*.

At this particular dinner he told how he had lately read a poem called "The Happy Journalist" (he did not mention the author's name). Reporters were a remarkable race. They were an extremely intelligent, learned, and above all things, a humorous, body of men, and full of imagination. Anything more poetic in the proper sense of the word, but inaccurate, than the reports of what went on in Court IV (the Court in which Sir Charles Darling had formerly sat) one could not imagine. But after all, Court IV did not fall below the level of Court V or Court VI. He was wishing

good-bye to the Bar a short time ago in his Court and happened to say that one could not leave

> The warm precincts of the cheerful day
> Nor cast one longing, lingering look behind.

Certain reports, he went on, spoke the following day of the "warm precincts of this cheerful den."

The "descriptive" reporter did not exist in the days of Lord Darling's youth, and the hardened old shorthand writer of that period was very unlikely to mistake the "outline" of day for den. But Lord Darling had ever had a wonderful "Press", as the film stars and other stars would say, and we may be sure he is not ungrateful. The gentleman of the "den" mistake, indeed, deserves some praise for putting a little cheer into lines which might else have read like "sob-stuff."

Lord Darling remarked at this dinner on the number of newspapers there were; how they differed, and how some simply lived by differing. But the London evening papers are fewer to-day by half a dozen than they were in the 'eighties. He reminded his hearers, too, of an incident in this connection which might well be put on record in these pages. It had happened a short while before that Lord Balfour had been asked, in a newspaper case, whether he ever read *The Times*, and he replied "*The Times* is not one of the newspapers I abstain from reading." Few men could have said so much in a sentence.

Something has already been written about Lord Darling's knowledge of the classics, and it will come as a surprise to many that, on his own confession, he is innocent of any knowledge of Greek. It was at the Press Club in 1924 that he referred to the distinction he had earned of being the last person to quote Greek in the House of Commons. Lord Darling took the opportunity, then and there, of gently but firmly denying that he was in any way entitled to the distinction. He proceeded to enlarge upon the matter to such an extent as to astonish most of his hearers. He was entirely ignorant, he said, of "the very letters of the language of which a complete range had been attributed to him." He implied that even if he knew Greek he would not quote it anywhere in public, and certainly not in the House of Commons. He confessed to know-

ing English, and ventured to wish that more people did. If he took the trouble he could write it.

It is difficult not to believe that Lord Darling is honestly prejudiced against Greece and Greek. For in his writing, at all events, he does not hesitate to quote from Latin authors whenever the occasion seems to demand it.

Having said so much with regard to this question of Lord Darling's ignorance of Greek it is—one feels on second thoughts—only fair to quote a little more fully from his speech at the Press Club on this occasion an amusing utterance but not lacking in bitterness. Following his confession he added :—

"I have never admired the Greeks. I think Lord Byron threw away his life in fighting for them, and I have always been of opinion that this country has got itself into no end of trouble in the East simply because Greek is a compulsory subject in Public Schools and Universities. It has, therefore, misled a number of otherwise sensible persons, notably the late Mr. Gladstone, to involve this country in no end of obligations for the sake of the Greeks, all because they have read about Helen and Menelaus and Ulysses, who, to my mind, was a most disreputable person. The consequence of this education is that we have fought all sorts of battles for the Greeks—Navarino and many another—of which I should have kept clear if I had been called into the councils of the Sovereigns about the year 1827, when Navarino was fought. I have escaped this infection for the simple reason that I never went to the University because I had not been to school. I could not have quoted Greek in the House of Commons : first, because I did not know it, and next, because hardly anybody there in my time would have understood it, except Mr. Gladstone, whom I never attempted to gratify, and Mr. Asquith."

We wonder what conclusions Lord Darling would have drawn if Erse and Taal had been compulsory subjects in Public Schools and Universities, and if Mr. Gladstone had been well-acquainted with them.

CHAPTER FOUR

Exeter and a Digression

FROM what has called for only brief allusion, so far, in previous pages, it may have been assumed that the first time Charles Darling stepped into the political arena was when he fought Charles Russell, later to become Lord Russell of Killowen, Lord Chief Justice of England, in 1885, in the then newly-found division of South Hackney. But it was not intended that this impression should be obtained by the reader. As a matter of fact, however, many persons, deeply interested in Lord Darling's career, have forgotten—if, indeed, they ever knew—that in 1884, a year before the first of the two unsuccessful South Hackney fights, Darling was to be found contesting Exeter at the invitation of the burgesses of the Western City, and having for his colleague in the fight that popular Tory, the Honble. Henry Stafford Northcote, C.B., a son of the first Earl of Iddesleigh. Northcote was one of the members then representing Exeter and his father was First Lord of the Treasury in the recently found administration of Lord Salisbury. He was created Baron Northcote in 1900. He was sometime Governor of Bombay, and Governor-General of the Commonwealth of Australia—and married the adopted daughter of the first Lord Mount Stephen, but died, childless, in 1911.

Mr. Northcote and Mr. Darling would have been an ideal couple of Tories in double harness to represent such an historic city as Exeter, but the accident occurred which possibly made some little difference—or perhaps a deal of odds, who knows ?—in the latter's career. His candidature was withdrawn when it was seen that Exeter was to lose a seat under the Redistribution Act. The impression he created, however, during this, his preliminary political canter, was most flattering and encouraging.

Details of this initial episode tell us that in the autumn of 1883 the Conservatives of the City met at the Victoria Hall for the purpose of selecting a second candidate for the representation of Exeter in Parliament. At the General Election of 1880 there were

three candidates for the two seats, two of whom were Conservatives, The Liberal was returned at the head of the poll by a majority of nearly five hundred over Mr. Northcote. Under these circumstances, it must be admitted that in consenting to offer his services to the electors of Exeter Charles Darling showed considerable courage. He must, indeed, have been spoiling for a fight. It is true the prize was worth winning, and there was not at the time any talk—or likely, it was thought, to be any—of the partial disfranchisement of the fair western city. Exeter was a constituency which any man might be proud to represent in Parliament, and this Darling fully realized. It would also have been an advantage to any ambitious and rising young politician to be associated with Mr. Northcote, whose popularity in the County of Devon, and outside it, was as great as it was well-deserved.

Charles Darling, however, as was insisted on by his friends at the time, had no desire to hang on to the coattails of Mr. Northcote. He was as independent then as he has been throughout his career, and is to-day in his retirement. He was right out to be valued according to his merits, or condemned according to his imperfections. Judging by the receptions he met with, when he was introduced to the constituency in October, 1903, and by the welcome accorded to him on subsequent occasions, he very soon made his influence felt among the Conservative electors.

On the night Mr. Darling delivered his first address the vast hall in the old City was crowded to the doors. The audience was not only appreciative, but enthusiastic; and the resolution in favour of his candidature was adopted without dissent. It was remarked of him at the time that he possessed an agreeable, though not very powerful, voice, and that he took the trouble to express himself clearly. It had been known, at that date, for some little while, that he was the author of the brilliant "Scintillæ Juris," and the electors of Exeter looked for something "clever" from him. He did not fail them. He delighted them, indeed, with his remark that the Government of the day "had perverted chronology, and seemed to think that A.D. stood for the Age of Dilke and that B.C. meant Before Chamberlain."

Darling during the brief Exeter campaign distinctly affirmed that he had no objection to the franchise, but, like the great majority of his party, he insisted that redistribution must accompany a

measure for the admission of two millions to the franchise! How long ago it all seems; yet only forty-five years!

It was urged at the time that Mr. Darling was a thoroughly orthodox Conservative and that if returned to the House would sit, not with the Fourth Party, but with the decorous gentlemen above the Opposition gangway. This was a pleasing reflection for the Conservatives of Exeter—the *semper fidelis* City of Queen Elizabeth—who realized in those far-off days that the uniting and well-being of the Conservative Party would not be promoted by the return of members unwilling to follow their recognized leaders.

However, it was destined all to come to naught. Exeter lost a seat, as we have seen, under the Redistribution Act, and obviously Darling could not split the vote with Northcote, so his candidature was withdrawn. There was, however, plenty of excitement and activity in store for him in the very near future.

It is amusing to find Exeter politicians speculating at the time of this campaign on the probable authorship of Darling's "Meditations in the Tea-Room". It had been published under the initials "M.P." and though Darling was "suspect" few, in Devonshire at any rate, regarded him as likely to be anticipating the future in so confident a manner.

The Exeter campaign, for all its brevity, must have been of immense service to Charles Darling, although he may not have realized it at the moment. But South Hackney was to come in a very little while, with its demand for platform assurance and confidence, in the face of so doughty an opponent as Mr. Charles Russell, as the future Lord Chief Justice then was. The experience was already to hand—*Se il giovanes apesse, se il vecchio potesse.* . . . Darling knew something already, when he was later chosen to contest South Hackney. He did not win the seat, but it was not his fault. If anyone could have done so he would.

There followed, after Exeter, a brief period of uneventfulness—maybe rest—for this active and tireless man, who out of a frail and uncertain infancy had developed the combined strength and elasticity of a piano wire. This, at any rate, so far as the chronicler is concerned. It is certain, of course, that he was doing *something* —reading, writing; acquiring a little more knowledge to add to the store that was to make him eventually the most finished article of his particular kind in all the country.

If digression be not out of place here it were interesting to recall in this connection (or the taking of a fruitful holiday) an article over Lord Darling's initials which appeared in the *Saturday Review*, on September 8th, 1923—a couple of months before his retirement from the Bench. The title was "Leisure not Lost," and the subject was the much-discussed, often-abused and generally-appreciated legal Long Vacation, a ridiculously long holiday, but no more senseless, for those who do not happen to be litigants than the attenuated release from service so frequently demanded and accorded to officers in H.M. Army and in H.M. Navy, or the vacations enjoyed by boys at our Public Schools and undergraduates at our Universities.

Sir Charles Darling, as he then was, offers for our consumption and, if possible, digestion, the theory that since the abundant harvests of old time were the result of a system under which the land for a while rested and lay idle, field by field, in turn, so it may be that the Long Vacation is in itself a period of fallow established for the recuperation of the natural forces of men, and by no means a time to be spent less in leisure than in the excessive toil of harvesters. This opinion has been forced upon him, he admits, by accident. And the accident is the point of the story.

Briefly, while enduring, or enjoying, the Long Vacation in Galloway, land of the Covenanters, Mr. Justice Darling, reaching upwards for "Law's Serious Call," as fit reading for a lawyer's holiday, chanced, by the aforementioned accident to pull down from the shelf one of the fanciful stories of the Rev. Lawrence Sterne—nothing less, indeed, than that which describes the protracted birth of "Tristram Shandy". And this led to a discovery, and this discovery was nothing less than the true and sufficient reason for the beginning and continuance of the Long Vacation.

"Tristram Shandy", Lord Darling proceeds to argue, is now surely little read, in spite of its impropriety ; yielding place to such works as "Potted Plots and Platitudes", because it cannot be taken at a gulp, but must be masticated and swallowed in small doses, and at such intervals for digestion that the Long Vacation itself is barely sufficient for its consumption. Taking it therefore as established that his accustomed labours must cease for the course of ten weeks and some odd days, for the purpose of his perusing "Tristram Shandy", Mr. Justice Darling proceeds to

recount how this resulted in nothing less than the conviction of Mr. Robert Browning, the Poet, of borrowing from Mr. Sterne, the Parson, one of his profoundest thoughts, and most clearly expressed. Nothing of Mr. Browning's, continues His Lordship—almost as if from the Bench —is better known—and, what is more rare, entirely understood—than the lines :—

The little more and how much it is.
The little less and what worlds away!

"Who," asks the learned judge, delightedly and delightfully, "could have written this except he were deeply conscious of the distance betwixt Camberwell and Asolo—and who, before Mr. Browning, ever dwelt in both? Certainly not Mr. Shandy, nor yet Uncle Toby—though he was the travelled member of the family."

But the story must be hurried to its conclusion. After weeks of reading, in Chapter 31 of Mr. Shandy's endless and eternal work, Sir Charles came upon this passage :—

> Just Heaven! How does the *Poco piu* and the *Poco meno* of the Italian artists—the insensible More Or Less determine the precise line of beauty in the sentence as well as in the Statue! How do the slight touches of the chisel, the pencil, the pen, the fiddlestick, *et cetera*, give the true swell which gives the true pleasure!

Or to resume with Mr. Browning :—

How a word can quicken content to bliss.

So Robert Browning stands indicted after a delicate inquisition, and all because of the Long Vacation, and the story is told here because otherwise it might easily slip into oblivion, and to allow it to do so were to commit a crime against Society, and the readers of "Potted Plots and Platitudes".

Just a question to the Bench. Has it been brought to the attention of M'Lud that it took a whole generation of readers of Sherlock Holmes's fascinating stories to realize that Edgar Allen Poe wrote "The Mystery of Marie Roget", "The Murders in the Rue Morgue" and "The Purloined Letter", and that Holmes,

Watson and the Police sergeant had been created for them years before? Sir Arthur Conan Doyle would never have thought of upsetting such a proposition, and when asked to take the chair at a Poe centenary dinner accepted, as a matter of course, and without dreaming of inquiring why this honour was bestowed on him. The reason was so obvious.

Yet the reading public took twenty-five years to find out.

CHAPTER FIVE

Marriage: the Clives: and Silk

AT the age of thirty-five Charles Darling married. This was in 1885—a year, as has been already noted, charged with destiny or him. His bride was Miss Caroline Greathed, of Whitfield, by Wormbridge, near Hereford. Her father had been the illustrious Indian soldier, Major-General Wilberforce Harris Greathed. He had married into the Clive family of Whitfield and his splendid services at the siege of Delhi appear to be singularly appropriate under the circumstances. Miss Greathed was the elder of his two daughters, and he had three sons. She was a lady of exceptional charm, and immensely popular in the neighbourhood of Whitfield, as, indeed, she appears to have been wherever she found herself. The wedding, which was solemnized on September 16th, in this year of destiny, attracted a great deal of attention, and particularly locally, for the family of the bride's mother, the Clives, had long been connected with the County. They live there to this day. The bridegroom was an eligible bachelor, well-to-do, of proved cleverness and wit, and with a future already promising very brightly for him. His flutter at Exeter, and his withdrawal from his candidature were, of course, well known; and he had only lately been adopted as Conservative candidate for the new Parliamentary borough of South Hackney. Those few folk who had been inclined to regard him as something of a *flâneur*, a happy saunterer, had already mended their views. But no one at the time, even anticipating a fairly "noticeable" parliamentary career for him, had any conception of what the future held in store.

After a brief honeymoon the newly married couple were back in London and settled down at 36 Grosvenor Road, Westminster. Mrs. Darling was with her husband on the platform when, less than a month after their marriage, he opened his first South Hackney parliamentary campaign. His formidable opponent, as we know, was

Sir Charles Russell, Q.C., afterwards Lord Chief Justice of England. He had been selected as Conservative candidate in the previous July.

In the month following the opening of the South Hackney campaign Darling was appointed Queen's Counsel.

So he plunged into that step of taking silk, which has ruined many a young man at the Bar. But the truth was the Bar meant very little, as a means of livelihood, for him at that time, and therein probably lay the chief grounds of complaint by bitter critics of his elevation to the Bench twelve years later.

From now onwards Mrs. Darling was to be found sharing her husband's labours in the field of politics, which was obviously, at that time, Charles Darling's goal. The first and the second South Hackney contests passed without success, though a fine fight was put up in each case.

Throughout it all, entertaining at home, platform and social work in his constituencies, Mrs. Darling was with her husband in the hard work he was doing in the years immediately following their marriage.

After his return as Member of Parliament for Deptford in 1888 the picture papers of the day were full of the quaint wood-block reproductions of the election scenes. Outstanding among them is the one showing Mrs. Darling at a window by the side of her husband who is returning thanks for his election. How the wood-engravers must have slaved in those days, for what pathetic results, and how the Turkey box-wood blocks poured out of Poppin's Court to their stuffy rooms on occasions like that of Deptford.

When Mr. Darling contested Deptford a second time in July, 1892, with Lord Edmund Fitzmaurice for opponent, the *Pall Mall Gazette* wrote:

> Mr. Darling has a charming wife, who was of great assistance to him during the election.

Mr. Darling was raised to the Bench in 1897, and Lady Darling —her husband was then knighted, of course—maintained until her death in 1913 a warm interest in the Deptford Fund and in other philanthropic work in the Borough.

Lady Darling's three children, Mrs. Keppel Pulteney, Major John Clive Darling, D.S.O., late of the 20th Hussars, and Miss Diana Darling, were born on June 4th, 1886, June 15th, 1887, and November 8th, 1900, respectively.

CHAPTER SIX

South Hackney: First Contest

ALL the evidence goes to show that Charles Darling took up politics seriously enough. He was anxious—deeply anxious—to help the Tory cause. In his many speeches to the electors, both at South Hackney and at Deptford, there is evidence, in his earnest endeavour to tell them what it was all about, that he early realized the great truth that it is not everybody one would set to choose a pig or a horse; how much less a Member of Parliament. So he laid himself out thoroughly to teach them how to choose their Member. He succeeded at Deptford, where he, through no fault of his own, failed at Hackney.

There is no gambling like politics, said Disraeli, nothing in which the power of circumstance is more evident. But Darling does not seem to have been in a gambling mood when he started his political career, and none would have been more surprised than he to have learned that in a very few years a spin of the wheel would have tossed him out of the House of Commons and on to the High Court Bench. It was the best thing that could have happened, both for him and for the country. He probably had no statesmanship in his composition but he made a magnificent judge, and as such was a splendid servant of the State.

He has continued to be this latter, even since his retirement from the Bench, by reason of the lucid and useful part he takes in the debates in the House of Lords, and his invaluable assistance in hearing appeals to the Judicial Committee of the Privy Council; and all this though he is rapidly approaching his 80th year.

As we have noticed in a previous chapter, Darling had already addressed an electorate body, at Exeter, in the year before he went to South Hackney, although he had withdrawn his candidature. So that he knew something about what was expected of him.

The two Hackney fights followed the completion of Gladstone's second administration. They were big days, these; with big things about and big men working them. The first Irish Bill was

to come to disaster. Gladstone's doughty lieutenants included such names as those of Dilke, Chamberlain, Harcourt, John Bright, and Selbourne. Parnell's star was shining clearly, but a woman was destined soon to appear in his life who was all unwittingly to set back the Irish clock for thirty years.

The political parties bore a strange resemblance to those of to-day, except that there were Conservatives, Liberals, and Radicals, instead of Conservatives, Liberals and Socialists. And, of course, the Nationalists and Parnellites. There was plenty of hard hitting asked for and given. There was not to be found that virtual independence which is met with to-day in so many of our more largely circulated newspapers. The man in the railway carriage reading the old *Standard* could reasonably glare at his neighbour opposite engrossed in the *Daily News*. Nobody thought the worse of him—not even the glaree!

Yet warm friendships frequently existed between men of the different parties; that, for example, between Charles Darling and Frank Lockwood, or between Darling and his opponent, Charles Russell.

Russell was an exceedingly "difficult" man; of great charm; but developing at times an extraordinary irritability, as though the world's mosquito strength were assailing him, and the task of repelling it was almost beyond him. As Lord Darling's first political opponent a brief sketch will perhaps not be out of place here.

Charles Russell was born at Newry, in 1832, and never lost his Irish brogue. The records of his schooldays are scanty, but when Darling was a child of five he was a practising solicitor in Ireland. The number of successful barristers who were originally solicitors or journalists is remarkable. In 1856 he entered at Lincoln's Inn, having matriculated but not graduated, at Trinity College, Dublin. In 1859 he was called to the Bar and joined the Northern Circuit. His fee books show that in the third year after his call he made £300. In the fourth year his fees amounted to over £1,000, a biggish income in those days. He soon began to be known in London and took silk in 1872, two years before Darling was called.

Russell was admittedly not a pleasant antagonist. Occasionally his opponents were made to feel a personal pressure fatal to the harmony which is a tradition of the Bar. A jury was often seen to be spellbound under his vigorous and passionate reasoning and

verdicts were not infrequently due to the merits, not of the successful litigant but of his counsel, Russell. Which is, perhaps, as it should be, and is at any rate, the only justification for some of the enormously high counsel's fees paid in these days.

In 1875 Russell was invited to stand for Durham, but withdrew on religious grounds, and Farrer Herschell, afterwards Lord Herschell, who, upon his advice, was accepted as Liberal candidate, was returned.

In 1880, after two unsuccessful attempts, he was returned as Liberal Member for Dundalk. It was not, however, till the franchise was lowered by the Act of 1884, and as many as eighty-five members were returned from Ireland to support the demand for an Irish Parliament, that he pledged himself, together with the majority of members, to the policy of Home Rule. In 1882 he was offered a judgeship but declined, and looked out for an English constituency. In 1885 he was returned for South Hackney and was appointed Attorney-General in Mr. Gladstone's government of 1886. It was then that Charles Darling came into field to oppose his re-election on taking office. At the General Election of 1886 he was again unsuccessfully opposed by Darling.

This was the man against whom the subject of this biography put up two splendid fights.

Charles Darling must, to all intents and purposes, from this time until his elevation to the Bench in 1897, be regarded as a moderately accurate representation of the political lawyer; a being, as he himself would say, "helping to govern the world by making believe it is governed." We think we are quoting here, and correctly, from "On the Oxford Circuit." The only way he differed from the real article is that he never held an administrative job as a Member of Parliament. There was the queer case of his filling the high office of a Commissioner of Assize while remaining a Member of the House. But that must be kept for a later chapter. Meanwhile, to get back to South Hackney from which—and an apology is called for—there has been so much straying.

It was on the night of July 9th, 1885 that the Conservatives of the South Division held an enthusiastic meeting at the Morley Hall, Mare Street, Hackney, and endorsed Mr. Darling's candidature

by a practically unanimous vote. This was a little more than two months before his marriage. He addressed the meeting for an hour and a half and it says much for him that they liked him as well at the finish as they had done at the beginning. Many a speaker at a political meeting in a London suburb has gone sorrowfully away after speaking for an hour and a half.

The Chairman had already prepared the way by stating that Mr. Darling was no novice. It had been said that he was a young man of no experience. In answer to that he (the Chairman) could say that Mr. Darling had been on Circuit ten years, and that he was highly spoken of as being a gentleman endowed by Nature with powers of eloquence. This was all in order, of course, and happened, moreover, to be true, which the audience were soon to discover for themselves. He had youth on his side, continued this discerning Chairman, and, besides being a member of the Bar, was largely interested in the commerce of the country, being a large proprietor in an ironworks company in the North. This was news to those present, and will doubtless be news to the bulk of Lord Darling's admirers to-day, who while regarding him always as a *rentier*, with a rapier of tempered steel, had, nor have, never looked upon him as an ironmaster, or captain of industry.

Mr. Darling had a great reception, and no excuses need be made for referring at some length to his speech, virtually the first in his political career, and as showing in entertaining fashion what was filling the minds of the politicians of those far-off days when the national expenditure had been raised by Mr. Gladstone's muddling from £79,354,000 when the Conservatives left office in 1880 to £85,558,000 in 1884, after Mr. Gladstone had been four years in Office. In the then-present year, when Mr. Gladstone could no longer hold office, the expenditure was £100,000,000 !

£100,000,000 ! Strange, pathetic, to look back over those forty odd years to a national expenditure of £100,000,000 ! The Hackney folk responded nobly to it with cries of "Shame." What would they have said and cried if they could have peeped ahead, and seen the thousand million mark ? But all things are so patently relative in their importance that no sane man to-day would discern anything simple or naïve in those honest people's indignation. They had all the things that we have to grumble at mixed in the proper proportion. India, Egypt, Ireland, Fenians—goodness knows what

not, and Sir Charles Russell was not going to put them right, but Mr. Darling was.

So it was a great meeting. The Tory Party was in office, the young speaker reminded them, and had the prospect of continuing there. The policy of the Liberal Party was this: "Let us all go under the G.O.M.'s umbrella." Lord Rosebery said: "Let us all go under the Midlothian umbrella." In 1879-80 the same umbrella was put up, and they were promised good shelter, with peace, retrenchment, and reform. The country went under the old umbrella which the G.O.M. held up, and it had been pretty well eclipsed ever since. What had become of the peace, retrenchment and reform? The umbrella had let the rain in.

Can you, without a great effort, link these two persons as one—Mr. Charles Darling talking like this in Mare Street, Hackney, and Mr. Justice Darling, ascetic, superbly and cruelly just, sentencing Armstrong to death in the little Town Hall at Hereford, nearly two generations later?

The point to be observed is, of course, that he was doing his job just as efficiently in one case as in the other. He has ever found himself incapable of acting in any circumstances without displaying the ultimate quota of necessary efficiency.

Mr. Darling had something to say at Hackney about the foreign affairs of the day. A Liberal had remarked: "Don't talk to the working men of England about foreign affairs. They neither care nor know, nor do they understand them." But if there was any class of people interested in foreign affairs it must be the working men. Lord Beaconsfield had said: "The foreign affairs of England are the private affairs of the Englishman abroad." Was it not foreign affairs which determined whether they could send their goods abroad? Was it not foreign affairs which settled the point whether our ships could sail through the Suez Canal? If foreign affairs were in a bad condition, who were the first to suffer? Was it the Liberal Lords of the Treasury with the pensions given them the other day? No, it was the working men.

Kipling has told this truth in many a line of verse since then, and Lord Darling to this day is a great admirer of Kipling.

If foreign affairs did not concern working men what right had they to vote, was another question.

In 1879-80 the G.O.M. ("Grand Old Muddler") had promised

them peace. Had they had it? The G.O.M. said they had and explained it in this way. The Egyptian affair was not a war but a warlike operation. There was the bombardment of Alexandria. It was not an operation of Captain Shaw's fire brigade. If what had occurred was not war what did they think of the Klea Wells, of Darfur, of Gongola—and what did they think of Khartum? Where, then, was Mr. Gladstone's peace? If promises were not kept in 1880 would they be kept in 1885? What debts had they left behind? Look at the books when the Conservatives left office in 1880. No deficit would be found in them. But in the books which the G.O.M. had left there was a deficit of £11,000,000.

Interesting, in view of the divisions of parties to-day, was Mr. Darling's reference to his Radical opponents "who were not Liberals, but Radicals and Republicans."

In this long speech Charles Darling scarified Mr. Gladstone again and again, and John Morley and his opponent, Charles Russell, and many others. But he must have been enjoying himself hugely as he laid his views before the electors. The frequent references to the "G.O.M." sound very strange to-day. Few of our youngsters would know what the letters mean, they belong so completely to the days of "mashers" and whiskers and brandies and sodas; days which some even now remember vividly and to others, older perhaps, are but a filmy recollection.

Mr. Darling's campaign proceeded methodically and successfully. His meetings were well attended and enthusiastic. Supporters of what were termed, at that time, the new Democracy (Socialists) occasionally turned up and gave him ample opportunity for finding ready answers to hecklers. The local Press took to him, and discovering his literary talents began to quote verses from "Scintillæ Juris." His Election Address, quoted almost in full below, will show just exactly the trend of his political views at the time. It is addressed from 36, Grosvenor Road, Westminster, and is dated Nov. 2nd, 1885:—

. . . as a convinced supporter of the present Government I appeal for support to all those Electors who disapprove or distrust the new and dangerous schemes of that aggressive Radical Party to which my opponent, Mr. Russell*, belongs. To all moderate men, by

* Mr. Russell had not then been knighted.

whatever party name they may hitherto have called themselves, I would submit that in the present Conservative Party they will find complete sympathy with their own views and aspirations, and along with a determination to permit no dangerous assaults upon the Constitution, a full intention to effect many reforms which the circumstances of our time require. It seems to me that the present Conservative Government, since their accession to power, have by their administration of Foreign and Home affairs alike, deserved the continuance of our confidence. Mr. Gladstone's government, distrusted at home and discredited abroad, abandoned to the Conservatives the task of restoring order when its own efforts had produced confusion dangerous to the State. Mr. Gladstone's Government—which had promised "peace and retrenchment"—had for five years waged unceasing and unnecessary wars, and had in every year far exceeded that expenditure of Lord Beaconsfield, which they had so loudly denounced as extravagant. Yet these men, who had brought us to the verge of a war with Russia, who had, by their own admission, grossly neglected the Navy of this country, who had destroyed upon our Indian frontiers those defences which they were afterwards bound (at great cost to us) hurriedly to attempt to restore; these same men, who had sacrificed to dissensions in their own Cabinet General Gordon, as heroic a public servant as England ever possessed; these same men who finally came before the country, showing in their accounts a deficit of eleven millions, and demanded to pay for their blunders and omissions the sum of a HUNDRED MILLIONS of taxes in one year alone, these same men now ask us to turn out a Government, against which no fault is alleged, in order to replace in power themselves, who so lately mismanaged our affairs, disgraced our flag, lowered our honour, and then abandoned us in our difficulty.

With regard to the Commercial Interests of this country, while believing generally in the doctrine of Free Trade, I look to the Royal Commission, instituted by the present Government, to suggest practical remedies for some portion of that depression under which our trade has suffered so long without attracting the slightest attention from Mr. Gladstone's Government.

I am in favour of such a reform of the Law as shall make land more easily saleable.

To that measure of Local Government which Lord Salisbury

has promised, I look as a means of increasing the efficiency of Parliament, by relieving it of the consideration of Local Measures, and at the same time for a settlement upon a satisfactory basis of questions relating to the Liquor Traffic, by the creation of a better Licensing Authority. I am opposed to Local Option as being unfair to travellers, and to all those who have not the means of keeping beer in their own houses. Education, not restraint, is, in my judgement, the better way of making men sober.

I have kept to the last the most important question raised by the Radical Party, viz., the Disestablishment and Disendowment of Religious Foundations in order to find funds for their new schemes of Secular Education and Grants of Land at less than their value to the new Voters in Agricultural Districts. In "the Radical Programme" published with a preface by Mr. Chamberlain it is stated in so many words that the State has a right to seize for such purposes as he has in view the endowments of religion "*down to the last sovereign subscribed to build a church in a destitute district.*" I would merely request all honest men, to whatever Congregation they may belong—pointing out to them that the words I have quoted threaten all sects alike—to do their utmost against that Radical Party which puts forward these doctrines of unholy pillage. It appears to me that it is time that the Liberal Party should disown those who for their own advantage only, claim to be Members of it, but who are in fact merely Socialists introducing here the doctrines of the French Revolution. The disunion of what was the Liberal Party is too evident to be missed. Those moderate Members of it who desire still to have a voice in affairs will, I believe, find in a Conservative of the present day their best representative.

The result of the poll at South Hackney was considered not unsatisfactory by Mr. Darling's friends.

Russell (L.)	..	3,544
Darling (C.)	..	2,602

In the following year Mr. Darling was greatly to better this.

CHAPTER SEVEN

South Hackney again: and Deptford

MR. DARLING'S second contest in South Hackney was waged at the General Election in the summer of 1886. His election address on this occasion was a far more precise and interesting document than was that of the previous November. It might well be so. One question only was before the electors of the country; one that was, to use Mr. Gladstone's own words concerning it: "The gravest and likewise the simplest issue which has been submitted to the nation for half a century." That issue was whether Mr. Gladstone's scheme for granting Home Rule to Ireland should become law or not. Sir Charles Russell at South Hackney had irrevocably entrenched himself on the side of Home Rule, and the issue was perfectly clear. Great Liberal statesmen were directing Mr. Gladstone. The country was more excited, politically, than it had been for many a year. Mr. Darling, in his address, urged that in the words of so thorough a Liberal as Mr. Trevelyan (only lately himself Irish Secretary, and a member of Mr. Gladstone's Cabinet), the scheme "sought to hand over law and order, without appeal, to hands in which I cannot believe that law and order would be secure. This surrender *would necessitate a land purchase measure which would involve the British taxpayer in enormous liabilities*, and it would raise the immense difficulty of our fellow countrymen in Ulster, and of the great number of loyal and quiet people throughout Ireland who desire to live under the protection of the Government of the United Kingdom."

This was what Mr. Trevelyan himself had said, and the words were as a sharp weapon in the hands of men like Mr. Darling, who were out to fight strong Home Rulers like Sir Charles Russell. None knew it better than Sir Charles himself, and he must more than once have trembled for his seat, which, indeed, he held so very narrowly.

But this is not to say that Darling did not prove himself a magnificent campaigner; and the energy he put into the fight was

recognized by friend and foe alike. It may safely be said that he made the most of a very fine opportunity in the face of strongly entrenched odds. He was able to tell South Hackney that the Home Rule scheme would hand the Government of Ireland over to those very men whom Mr. Gladstone himself, but a short time since, had described as "marching through rapine to disintegration, to dismemberment of the Empire, and even to the placing different parts of the Empire in direct hostility one to the other."

The allegation that by the introduction of his scheme Mr. Gladstone had broken the old Liberal Party to atoms was, of course, very rightly and very freely used by candidates at that time, who did not hesitate to beg the suffrage of old Liberal voters, and who no doubt got a good deal of it. Mr. Darling was not lacking in foresight here. "He (Mr. Gladstone) has deserted all the Liberal Party's principles, and now accuses those who hold opinions which he has held, but now abandons, of being seceders from the Liberal ranks. The accusation is too unjust to be tolerated by any fair-minded men, of whatever opinions *re* other matters."

Mr. Darling was able to condemn the plan for the same reason as, and in the excellent company of, such men as Mr. John Bright, Lord Hartington, Mr. Goschen, Mr. Trevelyan, Mr. Spurgeon, Mr. Courtnay, Sir Henry James and Mr. Chamberlain, Liberals every one, who had promised Mr. Gladstone and his new plan and his new Irish allies their uncompromising resistance. "This"—wrote Mr. Darling in his election address—"is a time to sink all party differences—for my part I do so—on this question, and I am ready to fight hard by the side of Mr. Gladstone's opponents, be they Liberal or Conservative."

Looking back over these forty-three years, with the Irish Free State an established fact, the election address of a Conservative Candidate for Parliament in 1886 makes interesting reading. It had to be admitted that the Irish were justified in asking for something. What was it? "They don't know what they want, that's what they want," might suitably describe the aims and ambitions of a bomb-throwing anarchist, but it would not do here. Mr. Darling admitted that legislation was required—generous in spirit and wide in its scope, for the creating of legislative and administrative bodies in Ireland (and if desired in England, Scotland and Wales as well) subordinate to the Imperial Parliament. "I have

carefully considered the alternative plans put before us, and I am of opinion that the proposals which Mr. Chamberlain makes, in his Manifesto published a few days ago (in the second week of June, 1886) are reasonable, generous to all while unjust to none—and those proposals I am ready to support by my vote should a Bill to give effect to them be laid before Parliament. Mr. Gladstone breaks our Parliament into pieces—Mr. Chamberlain maintains it intact. Mr. Gladstone would lay an intolerable burden of one hundred and fifty millions, at least, upon the struggling taxpayers of England (did taxpayers *really* struggle, we wonder in these days)—Mr. Chamberlain would leave each locality to settle its own affairs and to pay the price of the settlement—Mr. Gladstone would pension, wholesale, judges, magistrates and all officials who have incurred, by righteous administration of the law, the hatred of his Parnellite allies—Mr. Chamberlain would still leave to honest administrators the power and the duty to serve the State, selecting no class for his favours, and sparing no evildoers because they now happen to have political power."

In other words, young Tories like Mr. Darling were running near to placing that great Liberal, and erstwhile Radical, Mr. Joseph Chamberlain on a pedestal.

This Address by Mr. Charles Darling to the electors of South Hackney, which was dated June 17th, 1886, confident throughout, was naturally susceptible of ending on a high note :—

"I am, therefore, as entirely opposed to the Land Purchase Bill, which proposes to lay a monstrous burden of hundreds of millions upon us English taxpayers, as I am opposed to the Home Rule Bill, of which, in Mr. Gladstone's own words 'the Land Purchase scheme is an inseparable part.'

"If these, my opinions, are your own also, then I venture to ask you to help me in making them prevail ; and I promise that when this Irish question is settled, and we have time to turn again to our more immediate affairs, then, should I not be honoured with your confidence, I will commit again to you, should you desire it, the trust I have received, that you may choose some other who, on party questions, may more adequately represent you."

During a brief campaign Mr. Darling had a warm, indeed an affectionate, reception on this, his second visit to South Hackney. His speeches were vigorous, and an amplification of what has been

quoted from his election address. There can be little doubt that his eloquent appeal to those Hackney Liberals who dissociated themselves from Mr. Gladstone over the question of Home Rule bore fruit in both abstention from voting, and in voting for the Conservative candidate. The result of the poll shows this quite clearly. He made it plain that if, on this occasion, there had been no questions before the country but those which had been before it when he last stood and was defeated, then he would not have come into the Division again. There was a touch of Macaulay's Lays in Darling's opening speech, when with vehemence he declared: "Mark you, if I am returned for this constituency, and let there be no doubt about it, if, I say, I am returned, and this Irish question comes forward for settlement, and it is to be settled upon lines which maintain the supremacy of the Crown, of Parliament and the union of these countries, you had better know, before you accept me as your candidate, I shall vote for that policy, no matter what Government it may be that is in power. Whether it be Lord Salisbury is in power, Lord Hartington (the Duke of Devonshire) is in power, or Mr. Chamberlain is in power, if that is the policy of the Government, if that be the Government Bill, I shall vote for it, though I find the lobby in which I vote half-full of those who, upon other questions, may call themselves Radicals."

This opening speech against Home Rule at the Clapton Park Theatre was a remarkably fine effort, and may be read in full in the Appendix to this book. As befits the seriousness of the occasion it is almost devoid of that light touch for which Mr. Darling was already becoming famous. But here and there it flickers and provokes a grave audience to mirth. Just an example:

"Mr. Gladstone said—and I am told that Liberals almost wept as he said it—Ireland stands a suppliant at your bar. Well, Ireland sups at many bars, but Ireland has not with one united voice asked Mr. Gladstone to stand her anything."

A little more of this sort of thing, but not very much at Hackney.

The strenuous fight was fought with good temper on both sides and certainly with tremendous energy on the part of the Conservatives. The result was deemed to be satisfactory though the seat was not won:—

Russell	..	2,800
Darling	..	2,700

Sir Charles Russell's previous majority had been reduced from 942 to 100. He himself did not hesitate to discover the cause in his adherence to Home Rule, but it was a fine performance.

It was not until 1888 that Charles Darling fought another election campaign. This time it was at Deptford and his efforts were crowned with success. His opponent was Mr. Wilfrid Blunt, the wealthy and talented Irish and Egyptian Nationalist. He had already unsuccessfully contested Camberwell as a Tory Home Ruler and Kidderminster as a Liberal Home Ruler. In October, 1887, he had been arrested in Ireland for calling a meeting in a proclaimed district; and in 1885, the year of the Deptford fight, was imprisoned for two months in Galway and Kilmainham gaols. His wife, Lady Ann Blunt, was a daughter of the first Earl of Lovelace. It fell to her lot to play a big part in the Deptford election. Darling had already used Mr. Blunt as a whip to chastise Mr. Gladstone with, through the medium of a letter to *The Times*. It is worth quoting here, before going into details of the happenings at Deptford :—

Mr. Gladstone and Mr. Blunt.

To the Editor of *The Times*.

Sir,—

Now that Mr. Wilfrid Blunt has been publicly added by the Gladstonians to the list of those who suffer injustice on behalf of Ireland, will you allow me to call attention to the treatment he received from Mr. Gladstone's own Government at a time when he desired to disturb the peace of another country than Ireland ?

Mr. Blunt certainly knows as much about Egypt as he does about Ireland, and he sympathises actively with those who lead revolt in either country. Yet when he desired to land in Egypt for a purpose similar to that which has taken him to Ireland, Mr. Gladstone's Government beheld his expulsion from Egypt not only with unconcern, but with express approval. Let it be remembered that Mr. Blunt was suspected of wishing to land in Egypt in order to "enter into communication with the families of rebels," that the Egyptian Government desired to expel him, that Sir Evelyn Baring might have procured his admission into Egypt, and that then Lord Granville telegraphed—"You may abstain from opposing proposed action

A SKETCH OF MR. JUSTICE DARLING SHORTLY BEFORE HIS RETIREMENT

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of Egyptian Government." Any why? Simply because Mr. Blunt was a well-known firebrand.

Mr. Gladstone himself placed this beyond dispute. In the House of Commons, on August 4th, 1884, he said in the course of the debate raised about Mr. Blunt's expulsion:

"It would have been inexpedient on public and political grounds to have admitted him until Egypt was restored to its normal state. Therefore, while fully believing in the reasonableness of his exclusion, I have no motive whatever for casting responsibility on the Egyptian Government, and I am disposed to say we accept the responsibility of this exclusion under the peculiar circumstances of the case."

Now Mr. Gladstone classes Mr. Blunt's arrest at Woodford, with other events, as an "outrage". Yet he must have approved had Mr. Blunt been refused a landing in Ireland at all, unless he thinks that country is now "in its normal state."

Your obedient servant,

Charles Darling.

36, Grosvenor Road, Westminster, Oct. 26, 1887.

It was at a riotous meeting at Woodford, which had been proclaimed, that Mr. Blunt, the Chairman, and others were arrested and the meeting dispersed. That was on the 23rd October, 1887. Mr. Blunt was sentenced on the 27th of the same month to two months' imprisonment. He appealed, but the sentence was confirmed on the 7th January, 1888. The Deptford election was fought in February, 1888, and was therefore without the presence of one of the protagonists who was serving his sentence. Polling day was on the 28th February. Lady Anne Blunt deputised in brave fashion for her husband. It was a piquant situation altogether. Mr. Gladstone's Home Rule Bill, around which Sir Charles Russell and Mr. Darling had fought at South Hackney in 1886, was a thing of the past; but it was still Ireland that seethed in the pot, and that set the rotten eggs and cabbage-stalks flying at Deptford on a polling day reminiscent of a county borough election a couple of generations earlier.

In February, Mr. Evelyn, the Conservative Member for Deptford, had resigned. This bye-election was the result, and the chance which his old opponent Sir Charles Russell prophesied would be

afforded Darling duly arrived. The Hackney contests have revealed so fully the political composition of the Deptford Conservative candidate that there is really no need here to recount it by extensive quotations from his platform speeches and his election address. It was a markedly cheerful election fight. Hard blows were given and received. Political poets got to work and no doubt were of considerable assistance. What better than :

Deptford is for Darling,
Her votes he can command,
He's faithful to his country's cause
And loves his native land.
All traitors and all traitors' friends
Must very quickly shunt,
For Deptford is for Darling
And not for Wilfrid Blunt.

Not one Gladstonian candidate
Has found in Kent a seat,
Now Deptford, choose a Unionist
And keep our ranks complete.
Show the Arab-Irish-Englishman
Who mans the rebel punt
That Deptford is for Darling,
And not for Wilfrid Blunt.

Plenty of verses in this strain, brightly printed as an electioneering card, will catch the eyes of those who do not trouble to read a formal election address. Ireland, Egypt, Balfour's Land Act—all are dealt with satisfactorily by this glib rhymester. The value of the alliteration is cleverly estimated. Any cause can be the better advertised by its application. "Plymouth is for Perkins" were equally efficacious.

A comic paper of the day could not resist the temptation of depicting the Conservative candidate as Grace Darling in the well-known painting, rowing part, Mr. Blunt, securely caged in a bell —busy on a wild sea. It was "Vanity Fair" however, which portrayed him at this juncture in one of that paper's famous cartoons as "Little Darling." For long after as "Deptford's Little Darling" he was known. This sort of thing, with his reputation as a literary wit already made, and the sustained brilliancy of his platform

speeches and subsequent speeches in the House, kept his name continually before the public. Few men, indeed, have had more adventitious advertisement—all unsought for—and it is remarkable on looking back to discover that so many persons affected to regard him as an unknown quantity when Lord Halsbury took the bold step of raising him to the judicial Bench.

Meanwhile in Deptford things moved quickly and satisfactorily towards polling day. Mrs. Darling afforded great help to her husband. His meetings were bright and speeches good. In connection with these meetings there were, of course, plenty of "incidents". There was one of a pleasant character which is worth recording. In a crowded hall a pickpocket, at an early stage in the proceedings, managed to possess himself of the watch of a local tradesman, who happened to be an ardent supporter of the Conservative candidate. Mr. Darling addressed the meeting, which was very enthusiastic, and it was not until the proceedings were over that the watch was missed. The loss was reported to the police the same night, but naturally the owner had very little hope of recovering his property. A few days later, however, he received through the post a parcel containing the watch. There was a letter with it—the production of an obviously illiterate person—in which the writer humbly begged forgiveness for his action. Mr. Darling's speech had so stirred his feelings as an Englishman that he had grown ashamed of himself on the spot and would have returned the watch then and there if he could have made his way back to where its owner was. To be brief, he did the next best thing, and the safer. He discovered the name of his victim and returned the booty.

Scoffers may protest that this slight story has value only as material for a Religious Tract Society's publication. But, being true, it is repeated here merely as a tribute demanding to be brought to light, to Mr. Darling's eloquence.

The bye-elections which had taken place within the past few months had been watched with exceptional interest, but none had aroused more curiosity than this duel between Mr. Blunt and Mr. Darling at Deptford. That the interest was sharpened by the fact that Mr. Blunt could not be present to enjoy the action in person is not to be doubted, but the magnetic force of Darling had a lot to do with it. When the polling day, February 28th, arrived the

constituency presented a scene of great animation, and though the days of the hustings with their barrages of unsavoury missiles belonged to the past, Deptford managed to record its interest in the day's doings in a very creditable manner. Rowdyism, and something more, were particularly noticeable on the Gladstonian side ; the Irish element no doubt lending efficient aid in this respect. Mr. Darling had his hat smashed in but escaped personal injury. Mr. Colpeper, a supporter, had three teeth knocked out by a stone, and Colonel Gralmour, a Crimean veteran, was seriously injured. The town was packed with vehicles, and the electors arrayed themselves in all descriptions of garments as if for a Guy Fawkes Day—allegory ran riot, and a van with a figure on a plank bed paraded the streets throughout the day.

Lady Anne Blunt and Mrs. Darling were both in evidence throughout the whole noisy business. Bands played the popular air "Charlie is my Darling," and the result of the poll was heard with obvious content by the bulk of those who had taken part in this noisy holiday :

Mr. Charles John Darling, Q.C.	4,345
Mr. Wilfrid Blunt	4,070

a Conservative majority of 275.

The end of the day saw Mr. Darling, his wife by his side, returning thanks for his election from an upper window.

So far as Deptford is concerned it only remains to state here that Mr. Darling represented the constituency in Parliament until he was raised to the Bench nine years later. In the election of 1892 he was called upon to defend the seat against a Liberal candidate, Lord Edmond Fitzmaurice. He was returned with the largely increased majority of 565.

CHAPTER EIGHT

Parliament

ONE of the most characteristic acts in all Lord Darling's career was his giving to the world his brilliant little book "Meditations in the Tea-Room", under the pseudonym "M.P.", eight years before ever he sat in the House of Commons.

Jowett said that we see farthest into the future, and that is not far, when we most carefully consider the present. Eight years is far enough for some to look ahead, and it sufficed Darling for the moment. For it is quite certain that, at the time this book was published, he intended to enter Parliament, for all that he did not begin campaigning until 1884, when he suffered one of his rare setbacks in his Exeter disappointment. The two Hackney campaigns were excellent spade-work, and Deptford, as has been seen, took him safely into port.

This little secret of the Meditations, to be clandestinely enjoyed, with all its intelligent anticipation, must have given anyone with Lord Darling's psychological equipment great joy at the time. One or two of those with whom he came into close contact guessed it, but very few. The book-reviewers fell, almost to a man, before the delightful precocity. Lord Coleridge, then Lord Chief Justice, was one of those who saw through the initials. In the Court of Common Pleas, soon after publication, he caused to be passed down to the young barrister (he was barely 31 at the time) this note :

Dear Mr. Darling,

I hope you have seen that the *Spectator* thinks you a cynical "M.P." who usually went into the lobby with Lord Palmerston.

Yours sincerely,

C.C. 20 Feb., 1880. Coleridge.

This is what the *Spectator* actually said on this gratifying occasion :

> Here we have a collection of thoughts, aphorisms, comments on men and things, showing a shrewd, somewhat cynical, spirit often, expressed with much vigour and point. We should like to think that "M.P.'s" political creed is somewhat like that of Lord Palmerston —that he generally goes into the Liberal lobby, but has not much faith in legislation. In fact, his whole conception of government, unless he is ironical, is a satire on Parliaments, and all such things. "The State is rather a fortress, mainly designed for offence, than a city for refuge. If, with other old writers, we liken it to a ship, then with a man-of-war only can we make the comparison. . . . And all this through an empire so extensive that in some parts of it people are always sitting down to breakfast, provided they are not dying of hunger."

"If, with other old writers—" is delightful. Surely there never was a happier instalment by forestalment than is provided by "Meditations in the Tea-Room" ?

Public Opinion thought that there were certain reasons for suspecting the writer of not being a member of the House of Commons, and its inference is supported by an uncomplimentary view of that body. "He is clever and treats with familiarity—great familiarity—the subject of Statecraft, on the principles and practices of which he throws more light than the common light of nature." And so with the other literary weeklies, and with the non-literary dailies : speculation and admiration.

Mr. Darling broke with precedent very soon after his introduction to the House and his first bow to Mr. Speaker. It was, and still is, customary for young members of the Lower House to make their maiden speech shortly after such introduction. But it is not always—nor, indeed, often—that they have anything to say which adds to the sum of human knowledge. Not so with Mr. Darling. He had something to say when he took the floor for the first time in March, 1888, and he said it, and said it very well. So much so that *The Times* gave him space to the extent of three quarters of a column on the following morning. He addressed the House on the subject of Mr. Stanley Leighton's amendment to the "Bradlaugh Relief Bill". He proposed to bridge over the Bradlaugh difficulty by drafting a Bill in which there should be a form of words providing that a person should be allowed to make a solemn affirmation if he

could allege as his ground for objecting to be sworn a "conscientious objection to taking the oath." Mr. Darling, by the way, had different views as to another kind of conscientious objector, who was to appear on the front of the stage many, many years later. But here the suggestion was well received by a certain number of members on both sides, and amongst others by Mr. Bradlaugh himself and Sir William Harcourt; with whom later he, Darling, was in such frequent conflict. It is safe to say that the new member's first venture in the House was a distinct success.

It used to be said in the early years following his election that Mr. Charles Darling shared with Sir Michael Hicks-Beach the fame, and divided with him the honour, of being able at the shortest notice to act upon Sir William Vernon Harcourt as a red rag upon a bull. "Possibly," said a contemporary writer, "it may be Mr. Darling's fate to mount the Parliamentary ladder, or at any rate the lower rungs of it, in the same manner as so many other politicians before him—notably Lord Randolph Churchill—by scoring freely off a 'senior man' in the House of Commons. The member for West Paddington and the all-but elect of Central Birmingham (this was written in January, 1891) sprang into prominence through his attack upon a certain colleague with a 'double-barrelled' name, who has long since exchanged the Lower for the graceful retirement of the Upper House."

The writer of the above instanced, or alleged, Mr. Baumann's aspiration to fame by the very persistency of his attacks upon the London County Council. Persistency, as in the case of, say, Commander Kenworthy, in this present year of grace, usually demands aggressiveness as a companion if it is to succeed. Colonel Saunderson, forgotten by this generation, was Colonel Saunderson, M.P., by reason of his dare-devilry and of the defiance which he hurled against the first gentlemen below the Opposition gangway; and, to paraphrase the same writer, had Mr. Labouchere's hardy perennials —such as the abolition of the House of Lords and the reduction of the Royal Palace grants—been allowed to droop, it is possible that that "Nihilist of English politics" would before long have found himself in a position to give more time to the production of his society journal.*

* "Truth."

Aggressive politics must therefore be admitted to be distinctly paying in some instances. But this does not necessarily mean that Darling, in his early years of public life, had earned the description of aggressive politician. That in less than two years he had been involved in two affairs of (political) honour with Sir William Vernon Harcourt, the heir to the Separatist leadership, as some liked to think him, is no proof that these were other than quarrels into which the younger man felt himself deliberately provoked. They will be discussed in some detail later in this chapter.

In April of the same year that heard his maiden speech we find Darling again on his feet in the House. He spoke on the subject of Sentences on Appeal in Ireland, and then for the first time he enjoyed the distinction of being singled out for the thunderbolts of Sir William Harcourt, who twitted him mercilessly on his knowledge being confined to the practice of Quarter Sessions. In July he took a small part in the debate on the Local Government Bill on the question of judicial appointments. The first year had opened well. On July 6th, there was "Toby M.P." noticing him in Mr. Punch's "Essence of Parliament". Toby is listening to the debate on the Swiss Labour Conference. Old Morality had been wondering which was the more grateful and comforting: "was thinking about Baumann and Darling (Charlie the particular Darling he had in mind, not Moir Tod Stormouth, of Edinburgh and St. Andrew's University)" explains Toby M.P. "These two eminent young men, while not moulting a feather of friendship, had differed in opinion as to conduct of Markiss. Markiss, replying to invitation to send Delegate to Berne Conference, had made certain stipulations limiting range of discussion. Baumann disapproved this course; regarding it with grave displeasure; even seconded hostile amendments which Cunninghame-Graham moved. Darling (C.J., not yet L.C.J.) on contrary was able to regard policy of Markiss with almost unqualified approval. Not absolutely unqualified; that too much to expect; but enough to sustain Markiss, and prevent complications certain to arise from resignation at present crisis. . . .

"Old Morality heaved a sigh of relief. 'Wonderful young men!' he said. 'Happy the Government that numbers in its ranks two such brilliant coruscations—if I may say so—of humanity.'"

A notice of this sort, in Sir Henry Lucy's beautiful fashion, meant a very great deal indeed, to a young man elected but fifteen

months previously. Somehow, we feel sure that he took it with apparent unconcern, accepting the words as no more than his deserts.

About this time Darling is found, in the House, sticking up for his friend and colleague the Attorney-General, Sir Richard Webster, afterwards Lord Alverstone, in the matter of the attack levied against Sir Richard by the Irish Nationalists ; and showing up Mr. Gladstone for "reversing his judgement" respecting the choice of judges which had been made. Darling characterized it as a "covert attack" and defied any barrister to get up "and say a single word in derogation of the fairness and character of the judges."

Meanwhile, busy with politics, domestic affairs, sport and, one imagines, last and least, his profession of the law, this very busy young man still found time, as he did through his career on the Bench, to indulge his favourite pastime of writing squibs and lampoons and pretty verses, and seeing them published in various papers, sometimes over his initials but usually anonymously. Days and nights spent in the House afforded him plenty of "copy". He was at it soon after his election. Here is a pleasing and typical example from the *St. James's Gazette*, of November 21st, 1888 :

> My right hon. friend the member for East Mayo, meant that they would bring to bear *esprit de corps* (Mr. Morley in the House of Commons, Nov. 20th).
>
> Says Morley, the League injures tenants no more ;
> But merely appeals to their *esprit de corps* ;
> That is true, in a sense, Mr. Smith might agree :
> Yet to get at the *corps* it expels the *esprit*.

There is a Coffee House smack about this sort of talent which carries one back to the days of the Regency, and the earliest years of the Victorian era, for which, it has often been remarked, Lord Darling's daintiness of figure and manner would have been eminently suited.

The social side of politics, more emphasized then than now, found young Mr. Darling and Mrs. Darling in considerable request. The man in the street at the present time would find it hard to name any periodical political reception other than that which survives at Londonderry House. In those days there were many. The most remarkable political dinner party of the 1889 season was undoubtedly

given by Sir Charles Russell at 86 Harley Street. For catholicity of selection in the issue of invitations to the dinner and reception, Lady Russell set an example which could not possibly be followed in these days, though the cleavage of parties may be far less distinct. There were Mr. and Mrs. Gladstone and Lord Randolph Churchill, Mr. Parnell, the Campbell-Bannermans and Lord and Lady Aberdeen, and everybody who was anybody almost irrespective of party. There, in the crowded drawing-rooms, rubbing shoulders with each other, and no doubt enjoying each other's society to the full, were Sir Charles Russell himself, the Home Rule victor of Hackney, and Mr. Wilfrid Blunt, the defeated Nationalist of Deptford, and the third protagonist. As the chronicles of the day remarked: "Another legal face seems politically rather incongruous—the sharp, small features of Mr. Darling. Hard by was the prisoner, whom Mr. Darling had defeated at Deptford, Mr. Wilfrid Blunt with Lady Anne Blunt. Doubtless the link was Mr. Charles Russell, who organized the Liberal side in the Deptford fight."

About this time appeared the fourth edition of "Scintillæ Juris" and the second edition of "Meditations in the Tea-Room". It is impossible, as we delve deeper into Lord Darling's life-story, not to discern the extraordinary driving force that the "Scintillæ Juris", published when he was but a youth, had upon his subsequent career. Every successive edition increased its, and his, popularity. It was a law book and not a law book. It was Mr. Charles John Darling, and, for those days, it had a fine "Press". It introduced him to the sphere in which he was destined to shine.

For all this, however, there are plenty of those who were associated with him at the time who would say that if there were a red-letter day in Lord Darling's calendar, it would be found on May 14th, 1890. That was the day when Darling, discussing in the House a point in the Irish Jurors Bill, was hotly—almost violently—attacked again by Sir William Harcourt, who pointed at him the finger of scorn by declaring that he had been guilty of "an ignorant statement of which a layman ought to be ashamed, not to say a lawyer."

This allegation led to one of the most sensational political duels that has ever been allowed to be fought out in the columns of *The Times*. The one protagonist was famous already; the other was to impress so forcibly his personality upon the minds of the people that he was never likely to be forgotten. The incident is

probably closely connected with Lord Halsbury's choice seven years later, when Darling was raised to the Bench, Perhaps it had nothing to do with it. This must remain a matter of opinion.

When Sir William Harcourt's attack was analysed it was made clear that Mr. Darling's "ignorant statement" simply amounted to this : that though jurors can find any verdict they like, if they set aside the law and find a verdict of not guilty when the prisoner *is* clearly guilty they are acting in disregard of their oaths. Mr. Darling admitted that they had the power, but denied that they had the right to take such a course.

From the House of Commons the duel was transferred to the columns of *The Times* and ran a lively course, in which Sir William took it upon himself, in lengthy letters, to instruct Mr. Darling in the "Elementary Principles of the Law and the Constitution of his Country."

Needless to say Mr. Darling proved a somewhat refractory pupil, and Sir William must have been further embarrassed by Mr. Poland, Q.C., afterwards Sir Harry Poland, striding into the squabble and pleading to ignorance as great as that of Mr. Darling himself. A lot of newspaper space and printers' ink were expended, and a great deal of interest and a considerable amount of amusement were afforded before Sir William Harcourt, without actually withdrawing his charge, disappeared in an atmosphere of poetry, if not of good-will. The incident, frivolous though it may appear at the first blush, was of considerable importance to the participators in it, and particularly to the younger who came unscathed out of the quarrel, with the high legal authorities for his original statement correctly quoted, and his reputation greatly enhanced. *The Times* and the *Saturday Review* and other papers published leading articles on the subject. The controversy endured from May 14th, the date of the incident in the House, until June 7th, when Sir William Harcourt and Mr. Poland appeared in print in *The Times* for the last time over the matter.

Mr. Darling himself started the Press discussion on May 27th, with a clear-cut request to the Editor of *The Times* :

> "On account of its bearing on the great question now being settled in Ireland, I ask your leave to call attention to what is more than a mere personal matter between Sir W. Harcourt and myself

—namely, his treatment of the rights of jurors and of judges during the debate on the 14th on the Irish Jurors' Bill."

The long letter which follows is trenchant and judicial. It is immediately followed by a very long letter from Sir William in which he says: "I took it upon me at the time to say, which I now repeat, that it was extremely discreditable that there should be found anyone pretending to the ordinary education of an Englishman—let alone a lawyer and a legislator—who could dispute a proposition which is as undeniable as that twice two makes four."

After this there could be no going back; and we have said enough above to show that Darling was thrice armed in this fight. The *Saturday Review* and *The Times* were both on his side, and the entry of Sir Harry Poland into the dispute must have discomposed Sir William Harcourt more than a little. "Fortunately," summed up the *Saturday Review*, "the possession of a thick skin is one of the few weaknesses from which Sir William Harcourt is entirely free." The correspondence should be read in its entirety to be fairly understood, and properly enjoyed.

Further reacting incidents in Lord Darling's political career must be detailed in another chapter; briefly, but before the story of his judicial experiences can be told.

CHAPTER NINE

Parliament

IN the preceding chapter some account was given of young Darling's activities in the House. In his conduct of these he seems to have shown little of that lightness of touch which was to be such a marked feature of his judicial career. Without the Palace of Westminster the manner to which a generation of his fellows was to become accustomed to and to look for was already apparent, and it betrayed itself moreover in his frequent writings for the weekly press. But the seriousness of debate in his earlier days at Westminster seemed to weigh almost heavily upon him at times. The following may be quoted, in instance, from a periodical of the day :

> "Since Mr. Charles J. Darling, M.P. for Deptford, has entered the House, he has comported himself with so much glumness and gravity (in this respect imitating Sir. R. Webster rather than Sir Edward Clarke) as he mournfully walks up the aisle—no : the floor of the Commons, that I have little doubt this talented young Queen's Counsel is destined sooner or later to be a Law Officer of the Crown. He has a sharp, satiric style, has this Attorney-General or Lord Chancellor of the future . . ."

However this may be Darling went from strength to strength in the House, and won the golden opinions of those who knew how to appreciate talent and drive. The Press, too, was alive to his merits. Here is a case eloquent of these assertions.

On January 28th, 1891, Mr. Robertson, in the House, moved the second reading of the Conspiracy Law Amendment Bill. Mr. Fenwick seconded the motion. An amendment, the nature of which need not be gone into here was seconded by Mr. Charles Darling. An excerpt from the *Daily Graphic* of the following morning affords interesting reading :

> " . . . Mr. Fenwick, who seconded the Bill, was quite refreshing with his unadorned eloquence and simple Trades Union point of view of looking at the law. Mr. Gainsford Bruce was even more legal,

if less professional, than Mr. Robertson ; he had come equipped with a small library of authorities and leading cases to defend the existing law and repel the proposed innovation. It did not need a knowledge of the topography of constituencies to make sure that Mr. Bruce was the Member for Lincoln's Inn. A lawyer of a very different stamp is Mr. Darling, who looks so absurdly juvenile that it is hard to believe he is not merely a full-blown barrister, but a Q.C. His speech was the best that has so far been delivered this Session. His law may or may not have been sound* but his arguments were well put, his illustrations apt, and his quiet touches of humour seemed to enliven the debate. Poor Mr. Fenwick was unmercifully treated. He was made to explain his speech, explain his explanation, and contradict himself till he got hopelessly confused, and realized the terrors of cross-examination at the hands of a skilful lawyer."

Sir William Harcourt was present in the Chamber. We may be quite sure he had not by that time forgotten his unhappy duel with Mr. Darling of six months earlier :

"Sir William Harcourt, with his innate dislike of brow-beating, looked pained, and presently came to Mr. Fenwick's rescue, but not as a lawyer. For the legal profession he had the same contempt that some critics have for literature. It was not as a lawyer, he informed the House, but as the champion of the people that he stood there, at which declaration there were some who laughed. . . ."

And so on throughout an evening cheerful for some and bitter for others, with Mr. Darling all the time reaping most benefit and amusement, what time he steadily enhanced his growing reputation.

Mr. Darling's view of the Conspiracy Law Amendment Bill that it proposed to sweep away any kind of restriction which might remain on the law of conspiracy—to say, practically, that conspiracy was favoured by the Legislature—that they hoped to see more of it, that it might permeate, unrestricted through all classes and sections of English society, was apt, and welcomed by the opponents of the Bill. In the best Darling manner was this view of conspiracy. A person might go to a place of worship and sneeze and cough in a manner that would be embarrassing ; but if a number of persons were to organize themselves into a body and go to a church and behave in a similar manner the law could step in and punish them. If this Bill were passed, however, the House might go in

* Mr. Darling was not likely to make mistakes in law when taking part in debate. See his controversy with Sir William Harcourt on the "Rights of Juries".

sections to its least favourite place of worship and it might evince all these tokens of disapprobation without liability to punishment.

Darling, throughout his Parliamentary career, found *The Times* a willing medium for the conveying to the world his critical opinion concerning any wrong he thought needed righting. He did not hesitate to use this medium. Sometimes his letters would appear over his full name, sometimes over initials, occasionally over a pseudonym. In the latter case it was often possible from the trenchant and assertive style to make a good guess at the writer's identity. Take the incisive style of the following:

HARTLEPOOL ELECTION

To the Editor of *The Times*.

Sir,

Whatever may be the result of the election at Hartlepool, it is to be hoped that the methods reported to have been adopted by the Gladstonian candidate may be made the subject of legal proceedings. According to your report to-day, certain members of the Sailors' and Fireman's Union appear to have offered votes to Mr. Furness, in return for a promise given by him to employ none but members of such Union on his ships.

Now the Corrupt Practices Act, 1854, enacts that any person shall be guilty of bribery who "shall directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure, or to endeavour to procure any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such votes or refrain from voting".

The same statute provides also for the punishment of any voter making any such corrupt agreement.

It was certain that trade unions would sooner or later attempt to sell to the highest bidder any political influence they might possess, and the law might not, perhaps, be able to reach them. But if they go further, and offer the votes of their members as the price of employment for themselves or their friends, then it would seem that both the buyer and the seller in this market alike find that such a traffic will land them in a prison, and for ever exclude them from Parliament; for the provision I have quoted is incorporated in the Corrupt Practices Act, 1883.

Your obedient servant,

Temple, Jan. 15, 1891 Q.C.

There is little doubt that those who knew Darling at this time

would have correctly guessed at the authorship of a letter such as this. It has been quoted in full to give a proper idea of what his style was like when he felt that his own susceptibilities had been shocked, or that Society and the Law had been affronted. There is a frosty and judicial tone that has not a little that is anticipatory about it. It is as though the Editor of *The Times* were a jury and that the contents of the letter were a charge to that jury. The more we consider the work and ways of Charles Darling in these momentous years, the more inclined we are to regard Lord Halsbury's action in the matter of his appointment to the High Court Bench as wise and natural, and not deserving of the caustic criticism it evoked at the time.

It is necessary to take the story of Mr. Darling's Parliamentary career a good deal for granted now, enough having been written to show the important position he took in the House almost immediately following his election. His constituency of Deptford was never neglected. He spoke at length in the House when Deptford's interest in the cattle trade came to the fore. When he contested the Seat in July, 1892, against Lord Edmond Fitzmaurice he increased the Conservative majority from 275 to 565. He was able to point out to the electors that Fitzmaurice, in office, had helped to pass the Act by which cattle were excluded from Deptford, and that he had opposed its repeal, which the Gladstonians had prevented.

It was in the spring of 1891 that a series of clever and amusing articles began to appear in the periodical known as *The Anti-Jacobin*. They were entitled "In the House" by "M.P." The author was Mr. Darling, as many must have guessed at the time.

So far as the law is concerned Darling appeared in one or two cases, from time to time, which attracted a certain amount of attention, but none to equal in interest any single one of a score of *causes célèbres* he was destined to try as a judge.

He was elected to the Bench of the Inner Temple in May 1892, seven years after taking silk. His small family was growing up and a life-long association with the New Forest had been established. At this very day his son, Major Darling, and his married daughter, Mrs. Keppell Pulteney, live at Lyndhurst and Lymington respectively. Lord Darling's house was Lady Cross Lodge, Brockenhurst.

One of the most important events in Darling's career was imminent: his appointment as a Commissioner of Assize and its consequences; which will be fully dealt with in the following chapter.

CHAPTER TEN

Commissioner of Assize

LORD DARLING'S judicial career may be said to have begun, virtually, in November, 1896, when he was appointed a Commissioner of Assize. Lord Halsbury, a shrewd admirer of Mr. Darling, had occupied the Woolsack since the previous year, and did not lose this opportunity of showing his appreciation, and breaking with precedent at the same time. But Mr. Darling saw quickly enough where the trouble lay, and by his own action put matters right, at the same time disarming the critics of the Lord Chancellor.

Most people know what a Commissioner of Assize is. But it were as well, perhaps, to explain here, that he is a barrister of repute who upon occasion may be invited to take the place of a High Court Judge on Assize when the latter by reason of accident, illness, or service demands elsewhere, is unable to go on Assize. The Commissioner enjoys and suffers all the honours and worries of the Judge whose place he is taking. He is, in fact, for the time being, a High Court Judge, and represents the King even as does he for whom he is the temporary understudy. He gets quite a handsome fee, of course; as is right and proper. These Commissions are not of very frequent occurrence, but at the same time we can hardly describe them as uncommon.

As stated above, Mr. Darling, Q.C., was in November, 1896, just a year before he was raised to the Bench by Lord Halsbury, appointed a Commissioner of Assize. The Circuit on which he had to proceed as Commissioner was his own—the Oxford Circuit. It was pointed out immediately in the Press and in Clubs and places where they talk, that it had hitherto been the practice for Commissioners to be selected for Circuits on which they did not travel themselves as Circuit barristers. The reason for this was, of course, fairly obvious. It does not, however, appear to be so cogent a reason as that, for instance, which forbids a son to plead before his father. At this very time there were cases when this worked hardly but

justly. One that comes immediately to mind is that of the late Lord Coleridge, then the Hon. Bernard Coleridge, Q.C., who must have sacrificed many a brief on the Western Circuit, when his father, the first Lord Coleridge, and Lord Chief Justice, was on Assize.

But this criticism was minor and surmountable. Far more serious was that which urged the incongruity of a Member of the House of Commons going as a substitute for one of Her Majesty's Judges as a Commissioner of Assize, having regard to the fact that the Judges themselves are for the best of reasons rendered ineligible for seats in the House of Commons. This seemed unanswerable. A Member of the House of Commons cannot be a High Court Judge ; therefore a Member of the House of Commons cannot be a Commissioner of Assize ; for the simple reason that the latter is, so long as he remains a Commissioner, the same as a High Court Judge.

Strangely enough it was because of the absence of the Lord Chief Justice (Lord Russell of Killowen) who was to have taken this Circuit, and who had to return to London to take the place of Lord Justice Day, that this commission was necessary. Lord Russell was connected at many points with Lord Darling's career, as has been seen.

A violent storm of criticism broke in many quarters over the appointment, and certain acrimonious statements were not finally withdrawn—as we shall see—until early in the following year.

Meanwhile Worcester, where the Assize opened for City and County, found itself all unconcerned with precedent and the like, and frankly pleased that their Commissioner should have been chosen from among the ranks of the more distinguished young men of the land. We find the local paper of November 13th stating placidly the reason for Lord Russell of Killowen's absence, and describing the arrival of Mr. Commissioner C. J. Darling, Q.C., M.P., at Shrub Hill Station at 7.42 from London. The Commissioner attended Divine Service in the Cathedral on the following morning, being accompanied thither in the State carriage by the High Sheriff, by the Under-Sheriff of the County and a detachment of the County Police. Then at the Guildhall the Mayor and Corporation headed the procession.

At the Cathedral, waiting to receive Mr. Commissioner Darling —so soon to be Mr. Justice Darling—were the Dean and the Canons

and the Precentor and the Minor Canons; and the anthem was Mendelssohn's "Lord our Offences." Outside tranquil Worcester, offence was being taken in all sorts of quarters.

It is a pretty pageant this opening of Assize in some grey Cathedral City, and for Charles Darling it was a pretty foretaste of what was to come. It was a light Assize and the Commissioner's conduct of the cases was above reproach, and worthy of anyone long occupying a seat upon the Bench. Members of the Oxford Circuit were delighted with his appointment, and Mr. Amphlett, addressing his Lordship on their behalf, congratulated his Lordship upon the high honour conferred upon him. Speaking for himself he wished heartily that the appointment was one of an enduring character.

Mr. Amphlett's remarks took on significance when he said he believed it was without precedent that a gentleman should be appointed to the position his Lordship now occupied on the circuit to which he belonged: and *he thought that these circumstances made the honour all the more marked.*

It is necessary at this stage to furnish some particulars of the grounds of complaint over the appointment, and an account of Mr. Darling's own action in the matter. This was simply done by quoting from the *Daily News* of January 22nd, 1897.

Mr. Darling and the *Daily News*

Interesting Constitutional Question

With reference to Mr. Darling's recent appointment as Commissioner of Assize, and to the question whether this was an office of profit under the Crown requiring an Hon. Member to vacate his seat, we explained yesterday that the difficulty was avoided by no fee being in this case paid to Mr. Darling.

We stated further that the Chancellor of the Exchequer's indirect saving to the country of the learned Commissioner's fee was highly creditable to Sir. M. H. Beach as a vigilant custodian of the public purse.

As will be seen from our Parliamentary Report Mr. Darling challenges the correctness of our statement. The difficulty about the fee (acceptance of which would have necessitated his vacating his seat) was discovered by himself at the very outset, and the Chancellor of the Exchequer had nothing whatever to do with it.

> This being so, we withdraw all our observations on this branch of the subject, and express our regret for having made them. We are sorry to note that Mr. Darling considered our remark "Offensive". No offence whatever was intended. On the contrary, Mr. Darling's conduct seemed, and seems to us still, highly creditable both to his public spirit and to his devotion to his Parliamentary duties. Rather than vacate his seat, he preferred to sacrifice the fee which Commissioners of Assize usually and properly receive. Rather than not perform the duties which the Lord Chancellor asked him to undertake he was ready to discharge them gratuitously.

Further research into this matter which is only half-understood by those who are reminded of it to-day shows that Mr. Swift MacNeill's original protest against the appointment was made solely in defence of the principle of separating judicial from legislative functions which is observed in the English system excluding judges from the House of Commons. Mr. MacNeill would have pressed the question as a matter of privilege if the post of Commissioner of Assize could be brought within the definition of an office of profit. Mr. Darling's case, points out one authority, differed from that of Mr. Herbert Gladstone, who accepted a Junior Lordship of the Treasury without salary in 1881.

The *Daily News* did not refrain from remarking at the time its withdrawal was published that "it was somewhat strange that out of 194 Queen's Counsel and 58 County Court Judges (all eligible) a gentleman should be appointed to this office who is a supporter of the Government in the House of Commons, being, as Mr. MacNeill put it, from the Lobby to the Bench and from the Bench to the Lobby."

Happily the politics seem to be all on the side of the *Daily News*, and there is nothing in the affair which does not redound to the credit of Lord Darling.

As a matter of fact, all of His Majesty's Counsel are in the Commission of Assize for the Circuit to which they belong, and all of them are liable—whether in Parliament or not—to be called on to try cases on that Circuit if required.

CHAPTER ELEVEN

The Bench: 1897-1923.

TWELVE months after his much criticized and highly successful adventure as a Commissioner of Assize, Mr. Darling was appointed a judge of the High Court of Justice, King's Bench Division, or Queen's Bench Division, as it then was. The appointment is dated October 27th, 1897. He was then the youngest High Court judge, being 47 years of age. He was destined to adorn the Bench for 26 years, until he was senior Puisne judge, when he retired on November 13th, 1923, aged seventy-three. He was knighted, consequent upon his elevation to the Bench, on November 25th, 1897. This knighthood of judges follows the other honour as a matter of course. There was the notable and exceptional case of Mr. Samuel Wright, some years later, when he refused the knighthood but he succumbed in the long run.

Lord Darling's appointment to the Bench was due to Lord Halsbury, then Lord Chancellor. There is no doubt that Lord Halsbury had long regarded with favour the talented young man. The announcement of the appointment was the signal for the breaking out of a violent and, as it must seem to-day, incomprehensible storm of protest. The Temple was utterly outraged. The Liberals of the country, excepting those who troubled to look a little deeper than the others into the facts of the case, were dumbfounded, or said they were.

It is not possible to say, even at this distant date, how much this indignation was due to the fact that the patronage came from the hands of this brilliant and patrician Chancellor, who certainly was not valued at his full worth in those days, and whose political enemies would be only too anxious to lay any charge of nepotism at his door.

The late Lord Oxford (then Mr. Asquith), who had been Home Secretary in the previous government, was particularly incensed over the whole business. But the more sober Press contented itself with reporting the views of the adverse critics. Lawyers were very angry,

indeed, presumably because Darling had not "graduated" for the appointment along the antiquated and accustomed lines. His practice had never been sufficiently large to justify such promotion. His record in the House of Commons was in order perhaps ; but his fee book should have shown receipts of £20,000 to £30,000 a year. This idea that a lawyer who has made a fortune at the Bar—very likely by mere humdrum work over a number of years in a well-defined rut—can alone make a first-class judge, has almost disappeared to-day. With it, too, is gone the sheer necessity of parliamentary experience. It was not realized then how a judge if he be a clever man, will begin learning to be a good judge—and, as in Lord Darling's case a great judge—from the moment he takes his seat on the Bench.

So uncontrolled was the indignation of the Bar—or of a section of the Bar—over this appointment—which undoubtedly was no prize of accident but one of merit—that the extraordinary course was adopted of presenting a memorial to Lord Halsbury embodying the protest. This wretched document was carried about the Temple, and even young, uncalled members, in their residential chambers on the topmost floors, were asked to sign it. What became of it, goodness knows. What its promoters imagined *would* become of it, or come of it, Heaven knows. Mr. Justice Darling was already appointed, and a High Court judge can only be removed from office by intervention of the Sovereign on an address from both Houses of Parliament. Here would have been a nice to-do.

It will be useful here, for the purpose of amplifying a meagre account of the situation, to quote from an article which appeared in the *National Review* shortly after the appointment. It is headed "The Darling Campaign," and is interesting as showing that there are always some who recognize that every question has two sides to it ; and that, moreover, there is no occasion that does not produce one, or more, true prophets :

> A recent incident illustrates the forcible feeble (sic) character of the Opposition, and serves to explain why their frequent attacks on the Government meet with such meagre response from the constituencies. Speaking somewhere in Wales, Mr. Asquith, who used to be regarded as a level-headed man with some sense of proportion, broke into an absurd tirade. He declared that "with respect to the vacancy at Deptford, he could not help feeling that the electors

would consider themselves under a special responsibility to give expression to the practically unanimous judgement of the whole community, without distinction of creed or party, upon the most startling exercise of the right of public patronage which had ever been heard of". This refers to the appointment of Mr. Darling, Q.C., the late Member for Deptford, to a vacant judgeship in the Queen's Bench Division, which caused a tornado in a teapot that raged for the proverbial nine days. Mr. Darling is a clever man, but without large practice at the Bar, and his promotion was roundly denounced as a Tory job, he being principally known as a Conservative platform speaker and sharp critic of the Radical Party. Lord Halsbury, the Lord Chancellor, is not generally considered to be sufficiently sensitive in his selections, and he is confessedly responsible for the appointment of several judges who may be said to have "watered" the Bench. At the same time we believe that Mr. Darling will astonish his critics by making an excellent judge. Prior to his appointment he had given a taste of his quality when sitting as a Commissioner of Assize, in which capacity he won golden opinions; and before many months are over men will be saying "I could never understand the hue and cry raised against the Darling appointment. Why, he is one of our best *nisi prius* judges". In any case it is somewhat ludicrous for Mr. Asquith to throw stones from a glass house, seeing that he was a party to the two most glaring political jobs of late years*.

. . . moreoever, the terms of Mr. Asquith's rebuke border on the grotesque.

If Lord Halsbury had ever felt piqued over Mr. Asquith's protest and the indignation of the Bar—which is very doubtful—he must have recorded with increasing satisfaction the progress of his protégé, if we may use the word without any sense of unfitness. Darling as a young man had not known Halsbury, but the two became warm friends later. The one-time Lord Chancellor died at the great age of 96 in full possession of all his faculties.

That was in 1921. Twenty-five years earlier he had made Darling a judge. Comment is not necessary.

Speaking at a Press Club dinner in 1924, after he had retired from the Bench and had been raised to the Peerage, Lord Darling chose to be self-deprecatory and said no one would think of making him a judge again. Lord Halsbury was a hero to do it, and they knew that those of the type of Agamemnon had ceased to exist.

* Lord Elgin's appointment as Viceroy of India and Mr. Gully's appointment as Speaker of the House of Commons.

This was the occasion when he said: "If I had a real defect as a judge it is perhaps that I did not give as much to those who deserved it as they thought I ought to give. But it is very difficult in passing sentence to please everybody". This reads like fun at first, but it is nothing of the sort. Lord Darling was nothing if not a humane judge. He could not have possessed so highly developed a sense of humour without a tender heart and a broad streak of sentimentality. It did not need Thackeray to remind us that Humour is the Mistress of Tears.

Lord Halsbury, we have said, died in 1921, on December 11th. On the following day there appeared in *The Times* an "appreciation" over the initial "X". The discerning recognized without difficulty that the writer was Mr. Justice Darling, then nearing the date of his retirement.

This appreciation is interesting in view of the identity of the writer. We seem to recognize a secret satisfaction in Lord Darling's statement that, apart from being learned in the law, Halsbury was "steeped in literature having nothing in common with such learning as most lawyers find sufficient. A Latin author or a Greek provided for Giffard all the relaxation which others may nowadays find in golf, though even this he did not entirely neglect".

"In later years," continued "X", "I knew Lord Halsbury well, and I was proud then, as I am now, that he called me one of his friends. And so I learned to love him for his sturdy common-sense, which all his learning never could obscure, and to love him for his ever-present sense of justice and of right, in small things as in great, for his simple domestic life, untouched by any vanity in the great office he so long held, and for the honest indignation he ever felt at a deviation, by those who should walk in the ancient ways, from the well-marked path of men of honour. . . . A friend may say with truth :—

> He was a *man;* take him for all in all,
> I shall not look upon his like again."

And so ended the vital connection between one of the greatest Lord Chancellors this country has ever known and one of the most remarkable of her puisne judges.

To return to the opening days of Lord Darling's long career

[*L.N.A.*

MR. JUSTICE DARLING IN HIS 77TH YEAR

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on the Bench: the justification for his appointment was soon made apparent. The critics who had urged that here was no lawyer were confounded, for his legal judgements were in nearly all cases upheld on appeal. What this means to a judge only a High Court judge can truly say. For others it must remain a matter of imagination. Every judgement upheld means increased confidence and strength in an ensuing case.

Meanwhile, even as his reputation for sound judgements grew apace, so grew his reputation as a judicial humorist. It would have been a misfortune for most men in his position. Gilbert had already written about:—

"That Nisi Prius nuisance, the judicial humorist." It was an arrow barbed enough, in deft hands, to have slain, where there was not great strength to combat it.

In writing of Lord Darling's judicial career no attempt can be made in a book of this sort to provide a complete record of the famous trials over which he has presided, but in the ensuing chapters a number will be touched on lightly.

The important murder trials of Steinie Morrison and Armstrong are dealt with in separate chapters.

PART TWO

Lord Darling's Famous Trials

CHAPTER TWELVE

The Steinie Morrison Case

LORD DARLING has been described, by more than one authority, as the greatest criminal judge of our age.

The French have a proberb : "*Comparaison n'est pas raison,*" which may be roughly and quite properly translated : "Comparisons don't prove anything at all, so leave them alone." This has nothing to do with our own pragmatic sentiment that "Comparisons are odious," but it will serve as an excellent excuse for not placing Lord Darling in a row with Coleridge, Hawkins, Day and others of his immediate predecessors, for the purpose of identification, as it were. There seems little doubt that, in his own time at any rate, his equal was not to be found on the Bench. When we carefully read through the reports of such important and absorbingly interesting trials as those of Steinie Morrison, the Clapham Common murderer, and Armstrong, the Welsh solicitor and arsenic poisoner, we are astounded at the human grip, at the expert knowledge, at the terseness of comment, and the outstanding impartiality of this brilliant judge, whom Max Beerbohm was once misguided enough to caricature in a black cap tinkling with bells. There were no jingling bells in Court on those grim occasions when Mr. Justice Darling sentenced Steinie Morrison to death, or passed similar sentence on Herbert Rowse Armstrong !

All of Mr. Justice Darling's famous cases, criminal or civil, found him calm, dignified and completely at home with the conditions and facts. There are many one recalls at random : the Charlesworth Case ; the Sievier, the "Chicago May" and the "Mr. A" cases ; the Billing, Chesterton, Alfred Douglas and other libel cases ; the Bottomley trial and the Feltham Bank case—and all present him in the same rôle : that of a great judge, a perfect exemplar of the traditional occupant of the King's Bench in England.

"It does not matter how technical a case may be that comes before Mr. Justice Darling," said a barrister to a seeker after knowledge on one occasion ; "he always seems to be familiar with those

details that in the ordinary way are known only to the experts. Some have said that, in such cases, he reads up in advance, but I believe he does very little preparation. He has an encyclopædic knowledge and a perfect memory. It is these two things which make him the outstanding personality he is."

But, to return to the purpose of this chapter, which is intended to deal with the trial of Steinie Morrison, and Mr. Justice Darling's conduct of that trial. His charge to the jury* in this intriguing case has been described by all authorities as a model of impartiality, and it is to this fact and the deliberate undoing of the sentence that the prisoner owed his life. He was found guilty by the jury of the murder of Leon Beron, and duly sentenced to death. The sentence then went to the Court of Criminal Appeal, and without hearing Counsel for the Crown that Court held that the verdict must stand. Steinie Morrison's case looked hopeless. But there still remained the recollection, in the minds of some, of that cold, grave and impartial charge to the jury by Mr. Justice Darling. There was something else, too, which had no doubt escaped the attention of those who habitually read the reports of criminal trials for the fascination of the live, human story which runs through them all, but are careless of the higher critical side of the business. These people were unaware that certain words were lacking, which might well have been expected to be present in the terse and dramatic sentence passed by the judge on the prisoner :

"Steinie Morrison, you have been found guilty, after a long, careful and most patient investigation, of the crime of wilful murder. Every point which could possibly be put, every argument which could be used, was submitted to the Court and to the jury on your behalf. They have arrived at the conclusion—*the only conclusion as it appears to them consistent with the whole of the evidence against you* —that you did on that night, either alone or with the help of another, kill that man Leon Beron. Undoubtedly your case was supported by evidence demonstratively false. I am sure that did not unduly weigh with the jury, and that they have convicted you upon the strength of the evidence for the prosecution and upon that alone. *As to anything you may have to say for yourself hereafter, you must be advised by your solicitor and your learned counsel ; I can say nothing.*

* A verbatim report of this charge will be found in Part Three, page 205.

My one duty is to pass the judgement which the law awards; it is that you be taken hence to the prison from which you came; that you be taken thence to a place of lawful execution; that you be there hanged by the neck until your body is dead, and may the Lord have mercy on your soul."

The above is quoted in full that the reader may have the opportunity of discovering for himself, or of recognizing when told, the fact that the learned judge dissociated himself with the finding of the jury. It is carefully wrapped up, but it is there, and, as we have remarked, it probably saved Steinie Morrison's life.

The italics, it is perhaps needless to say, are those of the compiler of this biography and are, in no sense, a graphic reproduction of any emphasis put on his words by the learned judge at the time of uttering them.

To example Mr. Justice Darling's method when he was convinced that a verdict of guilty was abundantly and clearly called for, we may be pardoned for quoting in brief from his sentence on Armstrong, the poisoner, many years later:

"Herbert Rowse Armstrong, the jury, after a long and careful investigation of the case, and after a defence characterised by every quality which could induce a jury to take a favourable view of your case, have come to the conclusion that you are guilty of the awful crime with which you are charged: *and I feel bound to say that in that verdict I concur, and consider that it was the only one which men who had any regard to their oaths could have returned on the evidence which has been given.* The suggestion that your wife committed suicide was, to my mind, absurd, and was supported by no evidence which could render it not only probable but possible. . . ."

The italics are, once more, of course, those of the writer.

The vital difference between the carefully chosen wording of these two sentences will now be apparent to all. Armstrong appealed, as did Steinie Morrison, and, as in the latter's case, the conviction was upheld. But Armstrong was hanged and Morrison was not.

The King's prerogative to pardon, or to remit or diminish punishment, is now exercised, as everybody knows, by the Home Secretary, and a petition for the reprieve of Morrison was duly presented to him.

Mr. Winston Churchill, who at that time held this high office, decided to exercise his power of mercy, and the death sentence was commuted to one of penal servitude for life. It was a decision which was gravely criticised but it was, none the less, almost certainly a just one. It was beyond question we think the result of the wording of the sentence which we have been at pains to emphasize here. We have not in England the verdict of "Not proven", and maybe it is as well. The remission of a sentence of death to penal servitude for life never precludes the reopening of the case at a later date. The recent instance of Oscar Slater's conviction comes immediately to mind. In the Morrison case there is little doubt that the evidence, as laid before the jury, justified them in finding the verdict they did, and that the Court of Criminal Appeal, in hearing this evidence without seeing the witnesses, was perfectly correct in upholding that verdict. Mr. Justice Darling we may reasonably suspect of agreeing as to the prisoner's guilt, but as being one who would have, in this particular case, welcomed a verdict of Not proven had such been available. In this connection these words of his in his charge to the jury are more than a little significant :

". . . . but supposing you do come to that conclusion (that the alibi for the defence is demolished and blown out of Court) why, even then he may not be proved to be guilty ; he may be guilty—he may be guilty, and never proved to be guilty ; he may be guilty as a fact, and he may not be proved to be guilty."

And, furthermore, in this connection it is desirable to quote in full Mr. Justice Darling's remarks to the jury on the Scottish verdict of "Not proven" :

"Gentlemen, in one part of our country there is the power of giving another verdict besides that of 'Guilty' or 'Not Guilty'. It is possible in Scotland to return a verdict of 'Not proven'. An English jury cannot do that, but for all that, if they come to the conclusion that the case is not proven, although they may not say 'Not proven' aloud in Court, they give what is after all an equivalent verdict. If it is 'not proven' they must not say : 'Oh, it is not proven but we find him guilty ;' they must say : 'It is not proven ; therefore we acquit him.' "

Steinie Morrison died in prison, years after his sentence, and after several fruitless efforts had been made to adduce new evidence in his favour. The facts of his case are well-nigh forgotten, and, if only to show Mr. Justice Darling's masterly conduct of the trial, are well worth recounting here.

Before beginning this strange and dreadful story, however, it may not be inopportune to recall here—and without any sense of flippancy—Lord Darling's remark in an after-dinner speech some time after his retirement from the Bench, that if he had a real defect as a judge it was perhaps that he did not give as much to those who deserved it as they thought he ought to give. But it was very difficult in passing sentence to please everybody! So far, however, as the death sentences on Morrison and Armstrong were concerned, it is quite certain that the public sense of the fitness of things was not outraged, and that neither of these criminals was looking for leniency or anything else than he got. Yet in Armstrong's case the general opinion was that, in spite of the severe summing up, he would be acquitted, and Mr. Filson Young has told how Sir Henry Curtis Bennett, Armstrong's leading Counsel, was himself so confident that he went for a walk expecting to come back either to hear the verdict for acquittal or to meet Armstrong himself, and find he had already been released. As it was he came back into Hereford to hear the newsboys crying the verdict "Guilty" in the streets.

But to return to the murder of Leon Beron and the story of the crime as told in Mr. Justice Darling's Court during the second week of March 1911.

Not since Mr. Pecksniff's memorable visit to Clapham Common had this spacious South-London open space loomed to any great extent in the public eye. The city grandees who were wont to live in their large houses about its boundaries had long since departed to South Kensington and Tyburnia, and only an occasional appeal in the Press for the beautiful and long-threatened North Row, attributed to Wren, would call the attention of those who did not live in it, or by it, to this somewhat faded neighbourhood. But on New Years' Day, 1911, Clapham came into its own with a bound, at least as far as the newspapers were concerned. At about eight o'clock in the morning of that day a policeman found the body of an elderly man lying in some bushes on the Common. He had been killed by blows on the head and had been stabbed, and his face strangely

mutilated with a knife. There were two cuts, each resembling an attenuated "S", one on either cheek. It was clear that the man had been murdered on the footpath and his body dragged into the bushes, some ten yards away. He was easily identified by papers found on him as Leon Beron, a Russian Jew living in Whitechapel, who had been five years in England. The two marks on the face, cut after death and really more like the f marks on each side of the strings on a violin, lent added mystery to the case, and the Press responded to the invitation nobly. For many days Clapham was the most talked-of place in the kingdom. Everyone who had read that remarkable pioneer novel "Called Back" by Hugh Conway and any of its more or less unworthy successors, recognized the marks as signs of treachery and revenge. As a matter of fact no explanation of them was ever forthcoming. But the Camorra, Peter the Painter, Chesham House, every sort of Russian anarchist, Sydney Street and the Communists were all duly exploited.

These marks received plenty of attention in Court during the trial, and it must have come in the nature of a cold douche to many when, in his charge to the jury, the learned judge referred to them.

To quote his Lordship in brief, at this juncture:

"We know nothing of the motive. That he was robbed there is the best of reasons for supposing. . . . Everyone agrees with that. . . . Therefore you may very well come to the conclusion that robbery at all events entered into the motive. Mind, it may not have been the exclusive motive. There may have been other reasons for killing Leon Beron of which we know absolutely nothing. It is suggested that it is the work of some secret society, and that the cuts upon the face show it. I am not going to give my opinion about it. It is not for me to express an opinion about matters of fact. I can only say that anyone who sees the figure 'S' in either of those scratches has either better eyes or a more vivid imagination than I can possibly claim to possess. It is for you. Killed he was, for whatever reason."

Cold comfort, indeed, for those in the public gallery, and without the precincts of the Court, who had built up sensational stories on the strength of these marks of mystery, and who in some cases, as will be seen later, did not abandon them lightly, if they have at all.

To proceed with the story of the crime, a police net was spread over that district of Whitechapel in which Leon Beron had lived, and by the 6th January, notices had been issued offering a reward for the identification of a cabman who had driven two men from the East End of London to Clapham Common between midnight and 6 a.m. on the 1st January, or had picked up a single man passenger on the South side of Clapham Common or Clapham High Street between 2 a.m. and 6 a.m. that morning. Before any cabman answered the appeal, and on the 8th January, an ex-convict named Steinie Morrison was arrested while breakfasting at a Jewish restaurant in Whitechapel. His real name would appear to have been Petropavloff. He went quietly with the police, telling them they had made a great mistake. At Leman Street Police Station, after nine hours' detention, he sent for Inspector Wensley and said: "I understand I am detained here on a very serious charge—murder, I am told."

This utterance brought about one of the many difficult complications in this strange case. For the prosecution alleged that at the time the words were spoken no mention had been made of the reason for his arrest, and that he, mentioning murder, must have had knowledge of the crime. Morrison declared he had already been informed of the charge, and on the ninth day of the trial P. C. Greaves, a constable on duty at Leman Street on the morning of the arrest, corroborated the prisoner's statement.

Morrison was finally charged with the murder before Mr. de Gray at the Leman Street Police Court on the 9th January. Here happened the strange case of two witnesses giving important evidence for the prosecution which they afterwards retracted, and as a consequence were not called at the trial. In the one case the defence unsuccessfully applied for a committal for perjury. The evidence in both cases was probably nothing more than the outcome of flustered minds, or over-vivid imaginations. Leon Beron, the murdered man, had habitually worn a five-guinea or five-pound piece on his watch chain. With his other valuables it was missing when the body was found. The first of these two witnesses—a girl named Eva Flitterman—swore to having seen the prisoner on the 1st January wearing a similar coin. This damning evidence was supported by the girl's identifying the coin as a five-guinea piece by its similarity to one worn by her father. Later she said that the

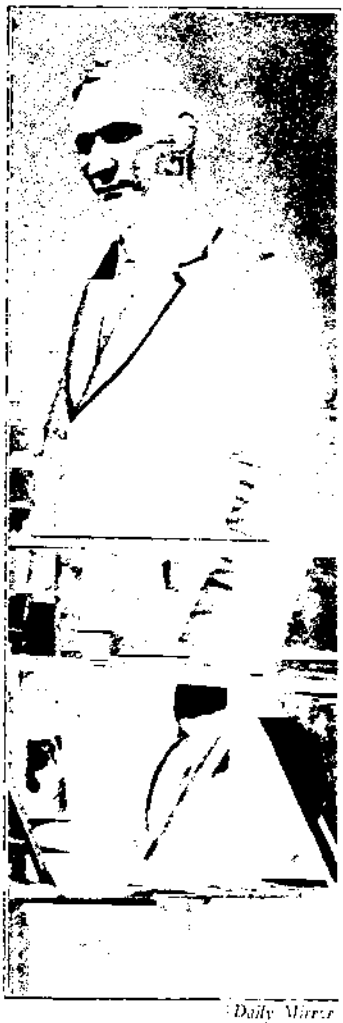
coin her father had worn was a two-guinea piece. Moreover the coin worn by Beron seems to have been a Kruger half-sovereign.

The other case was, perhaps, more serious. There a youth named Rosen swore to seeing the prisoner in the streets at half-past one on the morning of 1st January, and also to having seen him with a revolver. He later retracted both statements. He also alleged that he had been threatened by the murdered man's brother with violence if he retracted his previous knowledge.

Steinie Morrison reserved his defence and was committed for trial. The Coroner's inquest had resulted in a verdict of wilful murder against him.

Concerning the alleged threatening of the youth Rosen it is interesting to recall that on the 27th February four men were charged at the Lambeth Police Court with assaulting Andrew Stephens, a highly important witness for the prosecution. Stephens said he had been threatened as early as 15th January because he was assisting the police. On the 20th he had been violently attacked in the street and had to be taken to a hospital. The chief defendant said the assault was on account of Stephens having kissed his wife. Three of the men were committed for trial, and on the 3rd March were convicted and sentenced by Mr. Justice Darling to terms of hard labour. This was but three days before the Morrison trial began before the same judge. Only Stevens's evidence connected these men with Steinie Morrison, and all three denied any knowledge of him. But there is no doubt that feeling was running high amongst the spendrift of the underworld in this particular part of Whitechapel, and the incident did nothing to lessen the curiosity of a sensation-loving public.

On the 6th March, 1911, the trial of Morrison was opened before Mr. Justice Darling at the Old Bailey. The late Mr. R. D. Muir led for the Crown and Mr. Abinger appeared for the defence. With Mr. Muir were Mr. Leycester and Mr. Ingleby Oddie; and Mr. MacGregor and Mr. Roland—to-day one of the most brilliant and successful of the younger King's Counsel—were with Mr. Abinger. Remarkable features of the trial were the almost tiger-like fight made by Mr. Abinger for the prisoner, the bitter disputes over the admission of certain evidence, particularly that which led to the revelation of the prisoner's previous record before the jury had given their verdict, and the Court's view of the fact that photographs



[*Daily Mirror*

STEINIE MORRISON

[*Daily Mirror*

LEON PERON
for the murder of whom Steinie Morrison
was convicted

of the prisoner had been taken and published in certain newspapers before important witnesses had been called upon to identify him among a number of other men.

Over this welter of speech, hypothesis and opinions the learned judge maintained a cool and firm command, and never was his reputation higher.

The case for the prosecution was easily and simply stated in Mr. Muir's opening speech. The prisoner and the murdered man were well acquainted. The prisoner had been with him, Beron, all the evening of the 31st December, or New Year's Eve, 1910. They had driven together to Clapham Common early in the morning of 1st January, and Morrison had been seen leaving Clapham Common shortly after the time when the murder had been committed. There followed in the Crown's story the vital fact that Morrison had left his lodgings the next morning and had not returned to them. He had appeared with a large sum of money, and had on New Year's Day "cloaked" his revolver at a railway station.

Steinie Morrison himself was the principal witness for the defence, and his ordeal in the box lasted for the best part of three days. After denying that he was a friend, or close acquaintance, of Beron, or had been with him at all on the night in question, he attempted to set up an alibi by proving, with the aid of witnesses, that he had been at a music-hall from nine till eleven and had gone to bed at midnight. What happened to this alibi will be seen later. His witnesses' evidence was severely shaken in cross-examination. His absence from his lodgings was explained by the fact that he had gone away to live with a woman. As to the money on him, his mother had sent him a considerable amount from Russia.

Mr. Abinger certainly made the best of this case, but so did Mr. Muir in his handling of the prosecution. The judge held the balance wonderfully between them. The looseness of much of the evidence for the defence must have been sorely apparent to Mr. Abinger but he fought gamely to the end.

To render the story of this crime quite clear it is necessary to analyse the evidence by means of which the jury were eventually convinced of the prisoner's guilt. Everything really turned on the evidence of three cabmen and their identification of the prisoner. Believe them and their identificative statements—as the jury, and no doubt all others, admittedly did—and of course the loosely

constructed alibi fell to pieces. Moreoever the mass of evidence of those who lived and ate in, and stood about the streets of the sorry neighbourhood which Morrison lived in, that he had or had not been seen in the company of Beron late on the night in question and after he claimed to have been in bed at his lodging, became of secondary importance.

The first of these cabmen was Hayman, who stated that he had picked up Morrison and another man at Sydney Street, Whitechapel, at two o'clock in the morning of the 1st of January. He drove them to Lavender Gardens, Clapham. Hayman did not see the police until the 9th of January. He made a statement to the police on the following day and on the 17th of the month he picked out the prisoner from a group of other men, as being one of the two he drove to Lavender Gardens.

Now comes the second cabman, Andrew Stephens, the victim of the assault on 27th February. He provides the next link in the chain. He made his statement to the police on the 10th of January and not until he had seen Morrison's photograph in the papers. He identified him on the same day as did Hayman—the 17th of January. He had picked up a single fare in the early hours of New Year's morning at Clapham Cross and had driven him to Kennington. In his first statement to the police he had fixed the time at 2.30 a.m. Had that been correct the man he drove could not, according to the prosecution, have been Morrison, for he was at that moment being driven, with Beron, towards Clapham Common. Stephens was logical enough in his first statement and in his amendment of it. He had, he said, picked up the fare an hour after the last tram went—1.30 a.m. Later he went to the tramway company and found that, on this particular evening, the last tram had not gone until 2 a.m. He was, therefore, able to alter his time estimate to three o'clock. This witness was asked to state definitely that he had not spoken to Hayman before going to the tramway company; and did so.

There appears now the third cabman, who complicates matters again. He was Alfred Castlin and he identified the prisoner as early as the 9th January, as one of *two* men he had driven from Kennington Church to Finsbury Park at 3.30 that morning. A link in the chain, certainly, but what of this second man? The possibility was never discarded at the trial that two men may have been concerned in this murder, for Beron was killed and butchered with two weapons—an

iron bar or hammer and a long knife. But Stephens drove one man only from Clapham Cross to Kennington, and at Kennington Church the accused—identified by Castlin—was accompanied by another man, who shared the drive to Finsbury Park.

A very baffling case; particularly when one realizes that in all three instances the cabmen were able to describe the prisoner with great detail and to identify him without hesitation. Their evidence —honestly, no doubt, given—was open to comment, when one remembered that the accused was unknown to the witnesses, that they had admittedly only seen him for a few moments on a dark night, that in two cases seventeen days had elapsed before identification and that in the interval numerous pictures of Morrison had appeared, in the Press.

Beron was wearing a gold watch and chain and the five-guinea piece already mentioned; and was undoubtedly carrying a pouch containing probably £20 to £30, while the watch and chain were of exceptional value for a man in his position, and were probably worth from £30 to £40. Only a halfpenny was discovered upon the dead body. That no property belonging to him could be traced to Morrison did not worry the prosecution, for a week had elapsed before his arrest and a man with his knowledge of the underworld and his criminal record could easily have disposed of it, besides, they were able to prove that he had plenty of money to spend after the murder.

Beron was a strange character, apparently living upon air. His sole income appeared to be 10/- a week, or thereabouts, from some small house property. He paid 2/9 a week for a room (of which 9d. was provided by a charitable brother, who must have known he went about with considerable property on him). His living cost about 1/3 a day and he spent most of his time sitting with others in a Kosher Jewish eating-house kept by one Snelwar, also frequented by Morrison and by most of the strange-named Russian and Polish Jews who participated on one side or another in the trial. They were those who swore they had seen the accused about the streets with Beron when his landlord and landlady (the Zimmermans) in a neighbouring lodging-house swore he had come home at midnight (they had sat up to see the bolt was shot in the door after he let himself in with a latch-key) and could not possibly have gone out again without their hearing him, and that he was about the next morning before giving them notice that he was going to leave

(he explained, it will be remembered, that he was going to live with a woman). There were the Brodstays who testified to seeing Morrison at Shoreditch Music Hall on New Year's Eve. Morrison himself said he went back from the Music Hall to fetch a small parcel he had left at Snelwar's restaurant—a flute, he had told the little daughter of the restaurant keeper, wrapped closely in paper. This statement, said Mr. Muir, the waiter knew must be false, because from the weight and feel of the parcel he judged it to be a bar of iron. It was about two feet long and an inch and a half in diameter. It was about 11.40 p.m. when Morrison claimed this parcel, when the restaurant was closing, and Beron, who was there, left with him, and the defence brought evidence to prove that outside they said good night and parted, and the Zimmermans, as has been stated, swore that he was home at midnight and could not have gone out again without their knowledge.

Why did Morrison leave his lethal weapon so long in the care of a waiter? Who was the second man in Castlin's cab? Was there anything in the story of the "S" cuts to suggest Vendetta, or political motives for the murder? Why should Beron have gone with Morrison or any other man to Clapham Common at that time of night? Was there any serious meaning in the violent assault upon the cab-man, Andrew Stephens? Many other questions arise that will never be answered. Morrison seemed, himself, to have friends to give evidence in his favour, and enemies to furnish evidence against him. A queer, jumbled, horrid story of a queer, pitiful form of society whose existence among us is the affair of the police more than of the average British citizen. A volume might be written about this crime but there is not space to tell more here, nor is this the place. The excuse for saying so much is that the tale is so intimately connected with the great reputation Lord Darling acquired as a criminal judge.

Mr. Justice Darling's opening words in his charge to the jury show a conscious pride in the English method of dispensing justice:

"Gentlemen of the jury, you are here, as you know, trying a man of foreign nationality. I know not how in his own country he might be tried, but you will try him, of course, strictly according to the law of England, which, if it differs from the law of other civilized countries, errs always on the side of mercy. It requires more proof; it certainly gives greater advantages to an accused person and it

requires this, that in order to get a conviction you should be satisfied of the guilt of the accused beyond reasonable doubt, and also that the jury which tries him should be unanimous, which is not the case in many other countries."

The clarity of Mr. Justice Darling's charge is revealed in his own words when laying the evidence before the jury. There was comment, no estimating the worth of this or that piece. It was just a lay-out. "I am giving you, gentlemen, just an outline which I hope is distinct, because I think it will assist you more than if I go too much in detail into it. Many people do not remember in commenting upon evidence that you may do it in such a way that, as was said very wisely and picturesquely, at the end 'you cannot see the wood for the trees'."

Here again, on the grave question of identifying persons seen only on brief, single occasions :

"I do not want to speak for myself, but, think for yourselves. With what certainty can you, do you think, swear to a man whom you saw on a night like that, by the kind of light that there was at these places which you have seen ? Can you feel certain that a man would not be mistaken, and that he is not mistaken ? . . . I think myself that it is a very difficult thing to describe a man. Suppose I look at a man in Court, and, asked to write down a description of him, do you feel certain, if I did write it down, that you could pick him out from the other men in Court I do not know ?"

"You must not convict a man on one suspicion," continued the judge ; "you must not convict him on a thousand suspicions ; you must not add a thousand suspicious circumstances together and say 'that is proof'. No, you must find somewhere a solid anchorage upon which you can say : 'I am secure of this basis'. . . ."

"Consider it, gentlemen, attentively and carefully. I know you will. And remember what I have said, that it is the characteristic of English justice that we do not seek to avenge a crime ; we do not seek upon balance of probabilities to say : 'Someone must be held responsible for this'. . . ."

CHAPTER THIRTEEN

The Trial of Armstrong

JUST eleven years after Steinie Morrison was sentenced to death by Mr. Justice Darling, and reprieved by the Home Secretary, it fell to the lot of this great judge to try his last murder case. Different in all aspects to the Morrison affair it was, if possible, even more sensational. "A deeply interesting case, and one of very great importance to the public," the judge himself described it.

Steinie Morrison had passed away at Parkhurst prison a year and more previously, dead of self-starvation. The time was ripe for a fresh sensation. It was provided by the trial of Herbert Rowse Armstrong, solicitor, on the charge of murdering his wife by poisoning her with arsenic.

This trial afforded Mr. Justice Darling ample opportunity for a precise analysis of the complicated evidence in a fashion of which, probably, he only was capable, at that time. It need hardly be stated that he did not fail to take this opportunity, and his conduct of the case may be said to have rounded off his remarkable record of a criminal judge in a manner exceptionally apt.

The Armstrong poisoning case followed by strange chance a murder charge and protracted trial in which the main features were almost precisely similar. The professions of the two accused were the same, the scene in either case was laid in Wales, the social milieu was the same ; solid, middle-class and entirely respectable. There was no "Underworld" about these cases. Your butcher and baker in Hay knew all about you, and you knew all about them. The vital difference was that in the earlier case the accused was acquitted, and that in the latter Armstrong was hanged. A period of some fifteen months separated the two trials. The first took place in the Assize Court in Carmarthen Town ; the other in the Court House at Hereford.

With regard to Mr. Justice Darling's reputation, if it needed enhancement, this Armstrong trial furnished it, and more particu-

larly on account of his quick and plucky decision in regard to the admission of the Martin evidence, and of which more will be said in its proper place. It was a decision of the highest importance. It was challenged in the Court of Criminal Appeal but remained unshaken, nor were charges of misdirection to the jury partly as a result of the admission of this evidence, and partly on other counts, held to be good.

The case, the circumstances of which must now be set out in some detail, was, as has been said above, a remarkable one. The judge did not go too far when, in his charge to the jury he doubted whether any of them engaged there that day had in recollection a case so remarkable in its incidents.

The little town, or large village, of Hay in Brecon lies just over the Welsh border. It boasts only about fifteen hundred inhabitants, but for all that proving a certain importance in being a tiny metropolis for the surrounding country-side. It was, one would have said, a place about as likely to become the scene of a notable poisoning mystery as Crauford, or "Our Village". Its chief sin, shared in common with all other little towns, was probably tittle-tattle, and it lived at peace with the big world without, which knew little of it and which it left severely alone.

Into this peaceful spot, then busily engaged in minding its own business,there came in the year 1906, Mr. Herbert Rowse Armstrong, destined to make Hay the most talked of place in the whole country.

Armstrong was a solicitor. He was a very little man, but made up for what he lacked in weight by a marked possession of that characteristic which may be described as "push". He was of somewhat obscure and humble origin, but had received a good education, with the help of some kindly women relatives, and was a Master of Arts of Cambridge University. It was not stated during his trial what his college was, which is just as well, so far as the particular college is concerned.

Armstrong was born in 1871. Little is known of his youth, but he was admitted a solicitor in 1895, when he was twenty-four years of age. As we have said it was in 1906, or eleven years later, that he appeared in Hay. During those eleven years he had been in practice in partnership and on his own account, in his native place, Newton Abbot, in Devonshire, and in Liverpool.

Hay had long boasted two old-established firms of solicitors, whose offices were on opposite sides of the road facing each other in the High Street. It seems strange that so small a place as Hay could have produced sufficient clients to keep going two solicitors' practices. But apparently it did, and had done so for generations. The head of one of the firms was a Mr. Cheese, and Mr. Griffiths was chief of the other. Armstrong settled down in the place in 1906 as managing clerk to Mr. Cheese, having abandoned whatever practice he may have had on his own elsewhere. He had some money, which he put into Mr. Cheese's business and he became a partner very soon after his arrival. When Mr. Cheese died, shortly after, he found himself in sole possession of the practice.

In 1907 Armstrong married a Miss Katherine Mary Friend, of Teignmouth, near Newton Abbot, Armstrong's old home. It may be assumed he had known her for some time. They went to live at Cusop, just outside Hay, and a few years later took "Mayfield" a larger house close by, which was mentioned continually during the trial. They had three children, and lived at "Mayfield" many years. Mrs. Armstrong died there on the 22nd February, 1921, and was buried in the neighbouring Cusop churchyard. Armstrong remained there with his children till he was arrested on the last day of the same year.

When War broke out, Hay woke up, along with the rest of the country, and sent her sons forth. Armstrong had been one of the old volunteers, and in 1914 was in the Territorials—Royal Engineers. He was over what was, at that time, service age, but he left Hay to do depôt work in various parts of the country. It was not stated if he served abroad. Probably not, for it seems he was able to keep in touch pretty well with his practice, and when he returned it was as a full-blown Major Armstrong. He was fond of parading this rank long after the war was over—a petty vanity which he shared with many others up and down the country, and which he, no doubt, had a perfect right to indulge in.

Armstrong's rival in Hay, Mr. Griffiths, was an old man, and in health none too robust. His son, about to be admitted a solicitor was at the front, and so it came about that there appeared on the scene a most important figure in this strange drama. This was Mr. Oswald Norman Martin, a solicitor who had been invalided out of the army. A total stranger to Hay he was taken into Mr. Griffiths'

practice as a partner. Mrs. Armstrong when first she heard that Mr. Griffiths might take a partner, had called on Mrs. Griffiths. She had then asked if her husband could not be of some assistance to Mr. Griffiths. There had apparently already been some sort of suggestion on Armstrong's part that the two firms should amalgamate, or that he should assist until the younger Griffiths should come home from the War. It is quite evident that these suggestions were not received with any show of gratitude.

So the matter stood, and when Armstrong came back to Hay for good, or for bad, he found Mr. Martin strongly entrenched in the offices oppposite. Mr. Griffiths himself died in 1920, and his son in due course was admitted a solicitor and taken into the business.

That was the position which led to strong circumstances which undoubtedly brought about the conviction and hanging of Herbert Rowse Armstrong, after the rapid decision at the trial of Mr. Justice Darling that Mr. Martin's evidence for the prosecution should be admitted.

This story may seem to be straying into big paths. It is not, in fact, for although Armstrong was hanged for the murder of his wife it is practically certain that the body of the unfortunate lady would never have been exhumed, nearly eleven months after her death, had not Mr. Martin come to Hay to assist Mr. Griffiths.

Be that so, however, it is time to turn to the Armstrongs' domestic affairs. He himself, as has been stated, had all the push and go frequently associated with a little man. He liked to be in everything of local importance. Up to the outbreak of War his practice may be said to have been flourishing. He was clerk to the justices, which office alone gave him added importance in the place. In the dramatic circumstances of his appearance before his own bench at Hay his place as clerk was taken by an elderly colleague, the clerk to the bench at Talgarth. It has been said that Armstrong himself had already cast covetous eyes on this office, and that its occupant having been one of the dinner party of four when the inspector of taxes was taken very ill, may have had a narrow escape on that occasion. It does not much matter now.

But in spite of Armstrong's activities abroad and his general popularity there is no doubt that, at home at "Mayfield," it was Mrs. Armstrong who "wore the breeches". She was a strange woman, of unusual type, and although several witnesses at the trial described

them as an exceptionally affectionate couple, there is plenty of reason to suppose that Armstrong's home life was not a particularly cheerful one. She was a clever woman, but cranky and very severe. An affectionate mother, she was strict in that middle-class early Victorian fashion that seems strangely out of place to-day, or is, at any rate, very rarely found. "Prohibition" reigned at "Mayfield," and until the War brought him liberty, as it did thousands of others, he must have had a somewhat "thin" time, apart from his work, to which he seemed devoted. Mr. Filson Young, describing the conditions under which he lived says that no alcoholic beverages were allowed in the house, and that if at the table of a neighbour he was offered wine, is wife would interpose with a negative on his account, except now and then when she had been heard to say, "I think you may have a glass of port, Herbert; it will do your cold good." If he were smoking in the town or country and his wife came in sight he would hastily put his pipe away, and he was only allowed to smoke in one room of his house. On one occasion, Mr. Young relates, at a tennis party she called to him in the middle of a set that it was time to go home: "Six o'clock Herbert; how can you expect punctuality in the servants if the master is late for his meals?" On another occasion she bade him, before others, go home as it was his "bath night". There is nothing trivial in the recital of these things. They are part and parcel of the story of a crime.

The local doctor comes now into the picture, Dr. Hincks. His father had practised in Hay before him, and he knew everybody. In August, 1920, Mrs. Armstrong did not appear to be very well, and her eccentricities were noticeably increasing. Dr. Hincks paid her a professional call on the first of this month, but found nothing very wrong with her. The doctor saw her again on the 15th August, when he gave her a sleeping draught.

It should be noticed here that on the 4th August Armstrong bought three tins of powdered weed-killer.

On the 22nd August, Mrs. Armstrong was certified as insane and taken by Dr. Hincks to Barnwood Private Asylum at Gloucester. She had been suffering previously from acute depression, and from some kind of nervous affection of the hands which prevented her from playing the piano, much to her disappointment and chagrin. This affection seems to have been loosely described as "tic" by some members of her own family.

Topical Press

ARMSTRONG'S BUSINESS PREMISES

MRS. ARMSTRONG

Daily Mirror

MAJOR ARMSTRONG

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Mrs. Armstrong improved in health, physically and mentally, at Gloucester, and on the persistent requests of Armstrong she was allowed to return to Hay, five months later, on the 22nd January, 1921. She immediately began to lose ground again. In February she was very ill and Dr. Hincks saw her every day. She died on the 22nd February and was buried in Cusop Churchyard. And that would have been the last of Mrs. Armstrong, but for the incidents which occurred subsequently in connection with Mr. Martin.

At this point it will be useful to write down certain facts and dates which were set out in evidence at the trial.

Mrs. Armstrong had a small fortune of a few thousand pounds at her disposal. On the 17th June, 1917, two years after her marriage to Armstrong, she executed a will in which she made provision for the children of the marriage along with other bequests, and provided for a very small annual payment to her husband.

On the 8th July, 1920, Mrs. Armstrong made a new will, bequeathing all her real and personal estate to her husband. This will was in the handwriting of Armstrong. The previous one was in Mrs. Armstrong's handwriting. No provision was made for the children in this will, probate of which was granted to Armstrong on the 30th May, 1921.

This will, of itself, seems to provide a motive for the crime. It was made when Mrs. Armstrong was beginning to fail in health badly. Its attestation clause was utterly out of order, as Armstrong as a solicitor, of course knew. For Mrs. Armstrong, who was supposed to have signed it, did not sign before two witnesses, each signing in the presence of each other, as is necessary for a valid will. It was shown at the trial that Armstrong called in two persons separately to sign the document as witnesses and they had no notion what they were signing, nor was Mrs. Armstrong present. At the Hereford Probate Registry they were of course not to know that the document was a fraud and a forgery throughout, about which Mrs. Armstrong knew nothing.

Armstrong was continually buying weed-killer and white arsenic, and on the 11th January, 1921, just before Mrs. Armstrong came home from the asylum, and a few weeks before her death he bought a quarter-pound of arsenic, at a very early date in the year to take steps for making weed-killer.

The will had been proved ; ordinary life had been resumed at

"Mayfield"; Armstrong was cheerful and contented, at any rate on the surface. He could do as he pleased at home. He entertained in his own way. The months passed. Mrs. Armstrong had died on the 22nd February, 1921. It was now the 26th October in that year; a day fraught with destiny for Armstrong. His "Imp of the Perverse" was out and about.

We have mentioned the circumstances under which Mr. Martin came to Hay. He was the unwilling rival of Armstrong's, of that there can be no doubt. Had he not appeared when he did, Armstrong might have assimilated the Griffiths's practice. And now there was trouble of a different sort. Armstrong was the solicitor for the Vendors of a large Brecon property. Mr. Martin was acting for the intending purchasers. A deposit of about £500 had ben paid to Armstrong. The latter, however, delayed and delayed over a long period of time the completing of the purchase. Finally, the purchasers decided to rescind the contract and Mr. Martin demanded the return of the deposit, £500. This was not forthcoming from Armstrong. Repeated demands were unavailing. They were met with invitations to tea at "Mayfield" to discuss matters in friendly fashion. These were always refused. The Martins and Armstrongs, though amiable enough in their business transactions, were not, in the wide sense, friendly.

Finally, Mr. Martin succumbed, and on this fatal date, the 26th October, 1921, took tea with Armstrong. He recounted in Court how the latter had passed him a buttered scone in his hand, saying "excuse fingers". Mr. Martin ate it. On his return home he was dreadfully ill, with vomiting, etc, and continued ill for several days. Dr. Hincks was called in and became gravely suspicious of the symptoms. He caused an analysis to be made and definite traces of arsenic were found.

It was soon after this that Armstrong asked Dr. Hincks what would be a fatal dose of arsenic, and when told 2 grains, said: "I thought one grain was enough."

Dr. Hincks spent the better part of two days in the box at the trial. His story was remarkable. He, it seems, did a good deal of hard thinking after the discovery of that small quantity of arsenic in the case of Mr. Martin. How and when had he taken it? Turning over in his mind the circumstances attending the death of Mrs. Armstrong the true situation was suddenly revealed. Her neuritis,

or tic, which interfered with her piano playing had not been functional but organic—peripheral neuritis, one of the symptoms of arsenical poisoning. There were plenty of other symptoms, too, such as the vomiting, discolouration of the skin, and that strange feature known as "high-steppage" gait. But there had been no suspicion at the time. He wrote to the doctors at Barnwood Asylum and they, too, realized they had been mistaken as to the cause of this unhappy lady's illness. Had not her symptoms diminished while at Gloucester and reappeared immediately after her return home? The Home office was communicated with and the facts placed before them. They began to move in the matter. Strangers appeared in Hay, but no one knew who they were. No one, that is to say, other than Mr. Martin, his partner, young Mr. Griffiths, Dr. Hincks, Mrs. Martin, and her father, Mr. Davies, the chemist. They had to go about their business in the ordinary way as though this sinister thing were not menacing all the while the tranquillity of the little town of Hay. It must have been a terribly difficult position and it lasted for weeks. Meanwhile the gruesome part of it all was that the wretched Armstrong was still showering invitations to tea upon Mr. Martin, who refused and refused until he must have been sick to death of the business. Armstrong even went to the length of having tea sent to his office so that Mr. Martin might have even less excuse for coming round. Then Mr. Martin was forced to have tea sent into his office, that, in refusing he might say it was there. Was there ever such tragi-comedy!

All the time the police watched it, without suspicion on the part of Armstrong or the town of Hay. Then Armstrong grew desperate, and on the 28th December, 1921, invited Mr. and Mrs. Martin to *dinner* at his house, all tea party invitations having failed since that of the 26th October. The invitation was refused, and quite suddenly the blow fell. On New Year's Eve Major Armstrong was arrested and charged with the attempted murder of Mr. Martin. On New Year's Day, 1922, Hay woke to the knowledge of the arrest and to discover that it was famous. And all this time nothing was said about the late Mrs. Armstrong.

But the next day strange doctors appeared in the town, experts from London. There was business toward at Cusop Churchyard. On the 2nd January, Mrs. Armstrong's body was exhumed and examined in a near by cottage.

The Attorney-General, now Lord Hanworth, in opening the case for the prosecution, at the trial of Armstrong, described the symptoms of the last illness of Mrs. Armstrong, and said there were trustworthy symptoms of arsenical poisoning. Dr. Spilsbury's examination of the body revealed that in the curiously well-preserved remains (another index fact), and in the organs which alone he dealt with, there were nearly three and a half grains of arsenic. More than a fatal dose was therefore discovered still resting in parts of the body ten months after death. There must therefore have been administered a large dose of arsenic within twenty-four hours of death. The state of the remains also suggested to Sir William Wilcox, medical officer to the Home Office, that death was undoubtedly due to arsenic, and that Mrs. Armstrong had been submitted for the last weeks of her life to a course of poisoning, with a final dose within twenty-four hours of her death, when she was lying in bed unable to move her limbs or her hands to feed herself.

Before making a few comments on the conduct of this case and the judge's decision to admit the Martin evidence, as we have called it, it is necessary to put on record here another cause of suspicion against Armstrong. Soon after Mr. Martin's arrival in Hay, and not very long before the attempt to poison him on the 26th October, 1921, when he took tea at "Mayfield" he received one morning a parcel containing a box of chocolates from an anonymous donor. But neither he nor his wife were fond of chocolates and the box was put away until some days later, when friends were coming to dinner Mrs. Martin put some into a bon-bon dish. Those that were left over from the party were put back into the box. A guest was taken ill after the party, and subsequently the chocolates were examined. It was discovered that a small hole had been drilled in the base of some of them, and that arsenic had been inserted. The diameter of the hole exactly fitted the nozzle of the instrument that Armstrong after claimed to have used for injecting arsenic into the roots of dandelions. There was at least one other case with suspicious circumstances attaching to it, but it is hardly worth going into here. In the case of the chocolates it is difficult to imagine Armstrong distributing arsenic at random, so to speak, amongst persons—guests at the Martin's house, maids and others, against whom he had no grudge or feelings of dislike. But the facts are as above. The Grand Jury at the Herefordshire Assizes, on Mr. Justice Darling's advice,

threw out the bill as to the attempted poisoning by means of a box of chocolates, there being insufficient evidence to connect the prisoner with the sending of the box.

The Grand Jury, however, it should not be forgotten, found a true bill on the charge that the prisoner had definitely attempted to poison Mr. Martin. That charge would of course have been proceeded with even had Armstrong been acquitted on the major charge of poisoning his wife.

The Martin business assumed considerable importance, as was stated in the opening of this chapter, immediately after the luncheon adjournment on the first day, and before the Attorney-General had finished his opening statement for the Crown, Mr. Justice Darling had intimated that Sir Henry Curtis Bennett, K.C., leading Counsel for the Defence, would raise a legal point as to the admission of certain evidence for the prosecution. The Jury were released for an indefinite period pending the discussion.

The Attorney-General at once raised the question of Sir Henry Curtis Bennett's objection. He told the story of the prisoner's alleged attempt on the life of Mr. Martin by tendering him a poisoned tea-cake at "Mayfield" on the 26th October, and said these facts were required to rebut the suggestion which was being made that Mrs. Armstrong's death could have been caused by arsenic taken by misadventure. Further, he added, the facts were required to show that the prisoner had definitely attempted to poison Mr. Martin, and a true bill had been found on that matter against Armstrong. Counsel argued that he had a succession of cases from 1849 onwards, in which evidence had been held admissible in poisoning charges that other persons besides those who had died, but who were also in close association with the accused, had suffered from similar poisoning symptoms. The evidence which he would call, showing that Armstrong tendered the poison to Martin with his own hand, tended to rebut the suggestion of the defence that Mrs. Armstrong was poisoned by accident.

Sir Henry Curtis Bennett submitted that on this occasion the evidence was not admissible. The cases to which the Attorney-General had referred were cases where the defence was either that the person did not die of the particular poison, or that the death was the result of an accident. The word "accident" in these cases had a double meaning. It might mean that the person who died had him-

self accidentally taken the poison, or that the person who was charged with the murder had by accident administered poison. Here the case for the defence was that the prisoner had nothing whatever to do with the taking of arsenic by Mrs. Armstrong. Such evidence as the Crown desired to give relating to the poisoning of Mr. Martin was, he submitted, legally inadmissible because it would prejudice or endanger the prisoner on another charge.

Mr. Justice Darling : If the suggestion is to be or may be that she committed suicide, would it not be relevant to show that another person who displayed all the symptoms of arsenical poisoning although he did not die of it, displayed them because he had taken a meal administered to him by the defendant, and that the defendant was in a position to have given the same poison to his wife ?

Sir H. Curtis Bennett : When the defence is "I didn't do the thing. I didn't administer the poison. I agree that my wife died from arsenical poisoning, but I never had anything whatever to do with the administration of it," surely it is going a very long way to say that he murdered his wife because nine months or nine years later some other person showed symptoms of poisoning after having had a meal with Armstrong ?

Mr. Justice Darling ruled that the evidence which the Attorney-General proposed to call was admissible. He did not think it necessary to give any detailed grounds for his decision. If he was wrong there was the Court of Appeal, which could set him right.

Lawyers admit this to have been a bold and plucky decision. It is all in the order of things that the Court of Appeal found no cause to set him right.

Mr. Justice Darling's charge to the Jury will be found in Part Three of this book. Besides affording masterly reading it will fill in many gaps which want of space has caused us to leave in this brief summary.

Armstrong remained unruffled to the last. He had nothing to say why sentence of death should not be passed upon him.

Armstrong's Appeal was dismissed on the 16th May, 1922, and he was hanged on the 31st of that month.

CHAPTER FOURTEEN

The Trial of "Chicago May"

OF all the criminal trials before Mr. Justice Darling, that of "Chicago May" and her companion, Charles Smith, at the Old Bailey on the 26th July, 1907, for the shooting of "Eddie" Guerin, was the most dramatic, brief and conclusive. It lasted but a day, and the witnesses were few in number and their evidence always to the point. The jury did not leave the box to consider their verdict of "guilty", and the judge wasted not a moment in pronouncing sentence ; a "lifer" for the man, and fifteen years for the woman, thus condemning her to permanent residence for some ten years in a country which she was wont to visit on the rare occasions when it suited her better than being in the United States of America, in South America, on the Continent of Europe, or on the high seas : a first-class passenger in some mammoth liner.

Quite lately this remarkable woman died in a hospital in Philadelphia, shortly after an announcement had been published that she was about to marry the man by whose side she had stood in the dock at the Central Criminal Court, twenty-two years ago.

In detailing the story of the Old Bailey trial there is happily no question of the "De mortuis nil nisi bonum" order. Self acknowledged, she has become the Queen of Crooks, and, as such, an historical personage. Within a few months of her death she had published in New York the story of her life, stated to be written by herself. At the time of writing she, no longer a young woman, claimed to have been entirely reformed, and the book is dedicated to August Vollmer, Chief of Police, Berkeley, California, "who first showed me a practical way to go straight." He, however (it not being his business presumably) did not show her how to be accurate in all she wrote, for her brief account of the Old Bailey Trial does not rank consistently with the official record of those proceedings. But many years had passed, and in the self telling of a crowded life as hers was this may be regarded as inevitable. Strangely enough, however, in her own personal description she is May Churchill, her real name,

and an Irishwoman, with aliases— Chicago May, May Wilson, May Avery, Lilian White, Rose Wilson, Mary Brown and Margaret Smith ; yet she does not mention the fact that when she first met Guerin he knew her as May Latimer. Her full and correct name was given at the Old Bailey as May Vivienne Churchill, aged 31, so that she was 53 when she died. The personal description of a criminal adventurer is always interesting. In this case Smith, who for many years had been leading a life of crime, was described as a tinsmith ; while Chicago May was entered in the calendar as "an artist". This was surely sailing very near the truth, for if anyone were an artist it were she. After the verdict at the Central Criminal Court, Inspector Stockley, described her as one of the most notorious women in London, whose chief business was to compromise and blackmail men. She had driven men to suicide by these means. Her own story, which is nothing if not frank, entirely supports this description. The present tale of her misdeeds can be told by facts obtained on this side of the Atlantic.

It might be mentioned here that Chicago May met her Nemesis, if anywhere, in London. In other parts of the world, often charged with one offence or another, her punishment was usually nothing, or trivial. In six cases of grand larceny in New York she was discharged. In Paris, in 1902, she was given five years for larceny but did not serve the term out. In fourteen other cases, in New York and at Detroit, dealing with revolvers, larceny, prostitution and disorderly conduct, she seems to have escaped so lightly as to have suffered practically no punishment at all.

It is time, however, to return to the Guerin shooting incident and to the trial at the Old Bailey, which excited an enormous amount of interest at the time, for such a dramatic story of the underworld had not been heard for many a day.

In the plain language of the Court Charles Smith, aged 25, a tinsmith, and May Vivienne Churchill, aged 31, an artist, were indicted for shooting at Edward Guerin with intent to murder him, and for wounding him with the same intent. Both prisoners pleaded "not guilty". The late Mr. Arthur Gill, one of the best-known criminal lawyers of the day, with Mr. Kershaw, represented the Director of Public Prosecutions. Both Smith and the woman were ably defended, the former by Mr. Huntley Jenkins and Mr. Fordham, and "Chicago May" by Mr. Purcell. In opening the case for the prosecution, Mr. Gill very justly described it as a most important one,

demanding the anxious attention of the jury. Even he could not have guessed how deeply that jury were to be impressed by the recital of the facts and that they would arrive at their verdict without even leaving the box.

The story is fairly simple, as are most dramatic recitals, and need not take very long in telling.

In 1901 Guerin made the acquaintance of "Chicago May" in London. She herself in her book says it was at a thief's funeral; and that they were both successful prosperous thieves, each at the head of his and her special branches. Mr. Gill said Guerin knew her as May Latimer, or "Chicago May". They lived together for some months, when both were arrested in Paris upon the charge of robbing the American Express Company in that city. They were tried at the Seine Assizes. Guerin, another man and she were convicted. The offence had consisted of tying up the negro caretaker and blowing up the safe with dynamite. Guerin was sentenced to imprisonment for life on the notorious Devil's Island, and "Chicago May" to five years' imprisonment. Guerin escaped from Devil's Island, under romantic circumstances, in 1905, and about the same time the woman's term of imprisonment ended. Guerin escaped to America, and thence proceeded to England, where he met "Chicago May" once more. She was living with another man at the time. He apparently thought it wise to leave the field clear for Guerin. "Chicago May's" own story in her book of what occurred at this time differs so largely from that told in Court that it will be more profitable, as it is impossible to give both, to keep to the latter.

The renewed acquaintanceship did not last very long. In April of 1906 there was a quarrel at Aix-la-Chapelle. They parted but met again in London, when "Chicago May" told Guerin that if he did not continue to take charge of her and look after her she would send him back to Devil's Island, or do for him in some other way. He refused to have anything to do with her. Shortly after this Guerin was arrested, someone having given information to the police that he was in England, a fugitive from French justice. Whether May Churchill was the informant or not really does not seem clear, but Mr. Justice Darling apparently assumed she was, for in sentencing her he said she was, he believed, although without reason, in dread of what Guerin might do to her "because she had

done her best to send him back to Devil's Island." However this may be extradition proceedings were begun, and the Bow Street magistrate ordered his surrender. He appealed to the High Court, and pending a decision was kept in Brixton prison for thirteen-and-a-half months till 14th June, 1907, when it was decided that he was not liable to surrender to the French police and he was released. Mr. Justice Darling, at the trial, was at pains to explain that this long detention was due to the need for extensive inquiries in America with regard to Guerin's past. Guerin was Chicago born, and raised around its stockyard.

Guerin was now free in London, but nearly six months before, about the beginning of 1907, Smith had appeared from Cape Town whence he had been expelled. He was an American with a bad record who had gone to South Africa during the Boer War. Soon after his arrival in London he found himself in Brixton prison where he met Guerin, and according to the latter said he knew "Chicago May" who had "put him away" and he had better take care of her as she had sworn "to do him in if he got out of this." When Smith left Brixton prison he met a Mrs. Skinner ("Chicago May" describes her as her former maid) who knew Guerin and May. He showed sympathy for Guerin, threatened by this woman. Soon after he met "Chicago May", fell before her charms and apparently forgot about his sympathy for Guerin. At the time of Guerin's release, 14th June, 1907, he was living with this woman. In her book she describes him as "a high-grade prowler, of a good family. . . . He was a gentleman and reminded me of my first husband."

"Chicago May" was naturally upset at the news of Guerin's release from Brixton, as she knew she was suspected of having had something to do with his arrest. And so this wicked tale goes on to its climax. On the following evening Smith and May went out together; the former with a loaded revolver and the latter with a knife. The same evening Guerin and Mrs. Skinner visited the Hotel Provençe in Leicester Square, to-day a respectable restaurant run under another name, where they met an acquaintance named Oswald. They left at ten o'clock and at eleven the prisoners arrived, Smith and "Chicago May." Oswald told them that Guerin had been there and that it was lucky they had not fallen in with him. "Chicago May" said she feared Guerin might throw acid over her. Smith then said before Oswald, who gave evidence at the trial, that Guerin would

Moss Mayer

CHIC SALE'S "CHEROKEE"
As voted as "The Most Welcome in the World"

not do anything in his presence and added, somewhat naïvely, that if Guerin was a bad man he would be one, too, and fix him.

Meanwhile Guerin and Mrs. Skinner had gone along Long Acre to Bernard Street, Bloomsbury, near Russell Square Tube Station, where Mrs. Skinner lived. She left Guerin for a moment and he stood outside the station. While they were walking Smith and "Chicago May" had taken a cab, telling the driver to proceed to the corner of Bernard and Marchmont Streets. As he stood there waiting Guerin heard his one-time mistress call from the cab: "There he is." The cab went on a few yards when May got out on the offside and Smith on the near. Smith immediately approached Guerin and fired six shots at him, his woman companion hiding in a doorway. One shot only took effect, wounding Guerin in the foot. Smith must be put down as the poorest gunman that ever came out of Chicago. A policeman was on the spot before the last shot was fired. Smith bolted and Guerin went up to "Chicago May" with the words: "When you could not succeed in sending me back to Devil's Island you stoop to murder."

"Yes," was the reply, "and I am sorry we did not succeed."

Smith, when surrounded by police and civilians, attempted a little more shooting, but his ammunition was expended and he had to content himself with throwing his revolver in the face of an honest citizen. At the police station, in a statement, he said Guerin had fired at him first and had attempted to throw vitriol over "Chicago May." It was a poor effort and at the trial the prosecution contended that this defence was wholly unfounded. There was no vitriol and the only revolver was Smith's.

Mr. Gill at the trial did not dispute that "Chicago May" was in fear of Guerin (though it did not follow her fears were well founded) and that, determined to get in first, she employed Smith for her purpose.

Mr. Justice Darling, in passing sentence, said Smith had no excuse whatever. It was no quarrel of his, but he took it on his shoulders.

Smith, astonished by the life sentence passed on him, cursed the judge in the vilest language, and had to be removed from the dock by the warders.

This remarkable woman, "Chicago May," the cause of all the trouble, only smiled at her sentence.

In her book, to which we have referred, she states that Smith's getting out of Dartmoor in fifteen years was due to the intercession of Lady Astor. We have no knowledge of this. She herself was deported to the United States after being a little more than ten years in Aylesbury Prison. From May, 1918, and until August, 1926, she was continually giving trouble to the American Police.

CHAPTER FIFTEEN

The Murder of Miss Barrow
Trial of the Seddons
Mr. Justice Darling on Circumstantial Evidence

THE trial of the Seddons, husband and wife, for the murder of Miss Barrow, who lodged in their house at 63, Tollington Park, Islington, by administering arsenic to her, was opened at the Old Bailey on the 4th March, 1912, and lasted ten days. The man and woman occupied the dock together. On the 14th March, the woman, embraced by her husband, left the dock, acquitted of the charge against her, while Seddon, sentenced to death, disappeared below with the warders. The Judge was Mr. Justice Bucknill. The Attorney-General, Sir Rufus Isaacs (now Lord Reading), the late Sir Richard Muir, Mr. Rowlatt and Mr. Travers Humphreys were the Counsel for the Crown. Mr. Marshall Hall, K.C., M.P., as he was then, Mr. Dunstan and Mr. Orr defended Seddon, and Mr. Gervais Rentoul appeared for the woman prisoner.

Poisoning cases exercise a strange fascination on all classes of intellect. The interest in them is not reserved for criminologists. To this day we talk of the Borgias with bated breath. This story of the Seddon crime, relentlessly exposed to the Jury by Sir Rufus Isaacs in his opening speech for the prosecution, will probably never be forgotten. The daily Press had already had a good deal to tell the public of the inquiries into the cases—a fact to which Sir Rufus made chilling reference—but here was drama from the fountain-head, and for ten days everybody read and talked of little else than the Seddon case.

It is possible that the natural interest in the proceedings was further stimulated by the unusually circumstantial nature of the evidence relied upon by the Crown. The Attorney-General referred to this in his opening words to the jury: "The case is one which demands your very close attention—because it is a case which is placed before you by the Crown upon circumstantial evidence, and not upon direct evidence, of the administering of the poison." Mr.

Filson Young, in his reasoned study of the case, urges that one of the reasons why it was so remarkable was because the evidence, entirely circumstantial and concerned almost wholly with motive and opportunity "consisted of a chain of gossamer links joined together with immense ingenuity. . . ."

There is a loose view held by a large body of the lay public that a person cannot, or should not, even be convicted of a serious crime on circumstantial evidence only. But in how few charges of murder, for instance, is there direct evidence of guilt? Motive, opportunity and possession of the means to kill—proof of these three have hanged many a man. Here it was argued before the Court of Criminal Appeal that there was no proof that Seddon possessed poison. Mr. Justice Darling, in other cases, has referred to this matter of circumstantial evidence, and, pronouncing judgement before dismissing Seddon's appeal, he referred to the lack of evidence of possession: "That is true, but such evidence as that was not essential; had evidence been forthcoming that he was seen to give her arsenic with his own hand, and that she died within a short time thereafter, it would not have been a case of circumstantial, but of direct evidence." And, Mr. Justice Darling might have added, would have been shorn of any interest for the man in the street.

Seddon the Man

Before recalling, then, the "circumstances" of this strange case which, when linked together, hanged Seddon, and before attempting to assimilate the story as told by this witness and that out of the scores who entered the box, let us see what sort of man Frederick Henry Seddon was in ordinary life.

Seddon was district superintendent for Islington under the London and Manchester Industrial Insurance Company. In the year of the crime he was forty-one years of age. His wife was thirty-eight and they had five children. Their house at 63, Tollington Park might fairly be described as "good class". They went to live there in November, 1909. He was a very industrious man, and never ceased to progress in his profession—if you may so call it. He was a Lancashire man. He was hard, but apparently fair, in business matters. He was cold and calculating, and one would say domesti-

cally unpleasing. He made money wherever he could and his pronounced characteristic was acquisitiveness. He longed, without ceasing, to possess. His photographs show him with small chin, heavy moustache and high domed forehead; not at all unlike Crippen. His three days in the witness box did not appear to be in the nature of an ordeal. He struck one as being, cold, conceited and cocksure. It is certain the jury was not impressed by his demeanour in such a position.

But it is necessary here to take up the thread of the story which was unfolded to the jury by Sir Rufus Isaacs in his opening speech for the prosecution.

The Seddons had come to live at 63, Tollington Park, in November, 1909. The house was larger than his family's needs demanded, and in the following June he instructed house agents to obtain a tenant for the top floor. Shortly after Miss Eliza Barrow, a spinster of about forty-nine years of age, took the upper floor of four rooms and came to live there with a small boy named Ernest Grant, whom she had adopted, and a Mr. and Mrs. Hook, old friends. The Hooks remained only about a fortnight, being given notice by Seddon to leave immediately, as he had taken over Miss Barrow's affairs and would look after her. The Hooks, by the way, were not supposed to be looking after her.

Miss Barrow appears to have been a woman of somewhat peculiar temperament. In 1909 she had gone to live with some cousins named Vonderahe, in Evershot Road, North London, taking with her the little boy Ernie Grant. She stayed with them for eighteen months, paying for her board and lodging, but left on account of some disagreement. The evidence of Mr. and Mrs. Vonderahe in the case proved to be of the highest importance. Miss Barrow looked out for other rooms, heard of those to be let in the Seddon's house and took them. During all this period, and up to the time when she moved into Tollington Park, she was the possessor of a considerable amount of money, totalling something like £4,000 capital value. She had £1,600 in India 3½ per cent. stock. She was also the owner of a leasehold property (the lease expiring in 1929) bringing her in at least £120 a year profit. She appears, explained the Attorney-General, to have had one very curious characteristic, that of hoarding gold and bank notes, keeping them in a cash-box to a very large amount. The prosecution claimed that she had, during a

considerable period, at least £400 in gold in that box and a large number of five-pound notes, the exact number unknown, but at least thirty-three had been traced into the possession of either Seddon or his wife. There was also a sum of £200 odd in the Finsbury and City of London Savings Bank. The quarterly rent from her leasehold property went, in the form of notes, into the cash box. All this property, declared Sir Rufus dramatically, had disappeared by 14th September, 1911, the day on which Miss Barrow died. There was then no cash in her possession save £4 10s. according to one statement, and ten pounds according to another statement, of Seddon. There were some personal belongings valued at fifteen pounds.

Miss Barrow had gone to 63, Tollington Park a woman of property. On her death fourteen months later she was, to all intents and purposes, a pauper. All this property, the Crown was out to prove, and did prove, found its way into the possession of the Seddons. In less than three months after coming to the Seddons (whom she had never met before) the £1,600 3½ per cent. stock had been transferred to Seddon; so had the leasehold property. Miss Barrow's money in the Finsbury and City of London Savings Bank, to the amount of £216, which had accumulated there since 1887, was drawn out by her, in the company of Mrs. Seddon in June, 1911. Witnesses were called to show that something like that sum in gold was seen in the possession of Seddon on the afternoon of the 14th September. Miss Barrow had died from arsenic poisoning between six and seven that morning. Poor woman, she was not the first to find that hoarded gold and notes prove dangerous companions. She will not be the last. Seddon had plenty of reason for desiring to get rid of Miss Barrow.

Some of the five-pound notes mentioned above as having been traced to the prisoners had been changed at various times by Mrs. Seddon, who had endorsed them with a false name and address: M. Scott, 18, Evershot Road. Some of the notes went into Seddon's Bank. Husband and wife, they were obviously the only two persons in 1911 who had any interest in Miss Barrow's death.

It is necessary here to refer to Seddon's own statement in regard to the assignment to him of the leasehold property. He had, he declared, agreed to give her an annuity of one pound a week for her life in exchange for this lease, which had nineteen years to run

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SEDDON MURDER TRIAL

General view in the Court at the Old Bailey, showing Seddon in the dock

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and was worth £120 a year. For the £1,600 stock no document existed to explain what Seddon was to give her in exchange. He said there was a verbal agreement by which he bound himself to pay her an annuity of £72, besides allowing her to have the rooms in the house without paying any further rent (twelve shillings a week) for them. That, with the other annuity of one pound a week, would amount to about three pounds a week, and it seems that Seddon did pay the amount represented until the week before her death. And well could he afford to, with the foreknowledge of what was to happen during that fatal September. Sir Rufus Isaacs suggested that the £1,600 stock and the notes already referred to had been handed over to Seddon for safe keeping in consequence of the hold which he had managed to acquire over the deceased, and the confidence he had managed to instil into her.

Miss Barrow's property being disposed of in the manner described, or in some way very like it, there can be no doubt that Seddon would greatly benefit by her speedy disappearance from this world, and equally, that no one ouside Tollington Park could gain anything by her death. It may be left at that, and the rest of the gruesome story told without the introduction of figures.

Mrs. Seddon attended Miss Barrow during an illness which lasted from the 1st September until her death on the morning of the 14th September. Seddon himself was in her room on various occasions and on the 11th of that month, three days before she died, she made a will appointing him sole executor and trustee, and his father, living in the house at the time, was called in as a witness. There was no disposition of cash or any other property except jewellery and personal belongings and furniture. That was left to the two orphan children, Ernest Grant and his sister, Hilda, when they came of age, and the property meanwhile was to be kept by Seddon as trustee.

During the whole of this eventful period the Seddons had access to Miss Barrow's rooms. The maid in the house never attended those rooms at all. When taken ill the doctor diagnosed that she was suffering from epidemic diarrhœa. She vomited and had great stomach pains. About the fifth to the ninth day she seemed to be improving, the doctor still attending her. On the eleventh day she made her will and on the 13th of the month became rapidly worse. She was very ill all night and could not remain in bed. The Seddons came up. No doctor was sent for and she died at six in

the morning. Seddon then saw the doctor and obtained a certificate of death from epidemic diarrhœa. He saw an undertaker at 11.30 that morning and in the evening the body was removed to the undertaker's mortuary. The funeral took place two days later from the undertaker's.

And now comes the need to relate a strange line of conduct on Seddon's part, but for which he might have been alive to-day. He must have been dictated by that "Imp of the Perverse" which Poe says dogs the steps of all murderers. He arranges to give his unhappy victim a public funeral, meaning a burial in a public grave, such as falls to the lot of friendless paupers, although he is aware there is a grave waiting for her in a family vault at Highgate. Moreover, he informs no relatives of the death, and invites none to the funeral. The Vonderahes, her cousins, of whom mention has been made, lived within a quarter of a mile. He claims to have written to these people on the day of the death. They received no letter. He produced what purported to be a copy of the letter; proving nothing, of course. He had told the undertaker that there was only £4 10s. with which to pay for the funeral, and out of that doctor's fees must come. He had her money; he had her life; was there ever conduct more despicable? It seems to give you the character of the man in a sentence. The letter he claims to have written to the Vonderahes contains no mention of the public grave.

Four days after the funeral the Vonderahes made a chance enquiry about Miss Barrow and learned she was dead. There is much talk and speculation. Mr. Frank Vonderahes seeks an interview with Seddon. He does not get it until 9th October, as Seddon stated he wished to go away for a holiday—and did. After the interview this gentleman grows suspicious, makes further enquiries, and communicates with the authorities. The wheel had begun to turn. Two months after the death an exhumation order is made. Then Sir Bernard Spilsbury appears on the scene. Postmortem examination and arsenic widely distributed in the body. Death was due to arsenic poisoning.

Sir Edward Marshall Hall, in his brilliant defence of Seddon, fought hard on one theory that the accused had never possessed arsenic. The Crown relied on the momentous purchase at a chemist's by Maggie Seddon, a daughter, of a packet of six fly-papers, each containing more than enough arsenic to kill an adult person. A

paper boiled in water would release this deadly dose of poison. The Seddons had cooked for Miss Barrow, Seddon had been in and out of her room. There was every opportunity of administering the liquid in her food or drinks.

There is no space left to go into the details of the defence. It was sufficient for the jury that Miss Barrow died of a large dose of arsenic administered within forty-eight hours of her death, and that Seddon possessed arsenic in the form of fly-papers, that he had access to administer, and that he would benefit greatly by this woman's death.

The end of this long and sensational trial was marked by the breakdown of Mr. Justice Bucknill in sentencing Seddon to death. Both Judge and convicted man were Masons.

His Lordship: From what you have said, you and I know we both belong to one brotherhood, and it is all the more painful for me to have to say what I am saying. But our brotherhood does not encourage crime; on the contrary, it condemns it. I pray you again to make your peace with the Great Architect of the Universe. Mercy —pray for it, ask for it.

Seddon: I am at peace.

The Appeal

Seddon formulated thirteen grounds of appeal from his sentence. The chief of these were that there was not sufficient evidence that Miss Barrow died of acute arsenical poisoning, that there was no evidence that he was ever in possession of arsenic, that the evidence of the purchase of fly-papers by Maggie Seddon was inadmissible, that Mrs. Seddon and he were jointly charged with murder, the evidence was directed equally against both of them, and there was no evidence upon which the jury could discriminate between them. The verdict was therefore unreasonable, and could not be supported having regard to the evidence.

The remainder of the "grounds" were concerned with the alleged misdirection of the learned judge.

Mr. Justice Darling's judgement on behalf of the Court of Criminal Appeal was terse and masterly. He explained that the Court inter-

fered only if there had been a wrong judgement on a point of law, or if the verdict of the jury, having regard to all the evidence in a case, is unreasonable in point of fact, or if, on a general view of the case in law and fact it appears that there has been a miscarriage of justice. The grounds of appeal were disposed of, one by one. In view of the remarks about circumstantial evidence at the opening of this story, the following words of Lord Darling (as he is to-day) are more than a little interesting :

"The main point differentiating this case from certain other circumstantial cases of poisoning is, that no poison was traced to the physical, manual, possession of the appellant ; it was traced to the house, but there is no evidence that it was put by Seddon into anything Miss Barrow took. But the absence of that evidence does not justify us in saying that the jury were unreasonable in giving the verdict they did."

The Appeal was dismissed.

CHAPTER SIXTEEN

The Case of Kitty Byron
The Lombard Street Murder

THE murder of Arthur Reginald Baker, a stockbroker, by Emma Byron—in the reports of her trial described generally as Kitty Byron—partook of the nature of a French tragedy rather than an English—*a crime passionel.* Yet it was committed in the heart of the City of London on Lord Mayor's Show Day, November 10th, 1902, in sight of many people. Lord Mayor's Day happened on the 10th that year, as November 9th was a Sunday.

There was no strange crime, cloaked in mystery, to baffle Scotland Yard or set the tongues of criminologists wagging. Neither for a Sherlock Holmes nor for a Cesare Lombroso would it have afforded an ounce of mental pabulum. At the trial of Kitty Byron the corridors about the court were not choked with waiting witnesses —it took no fewer than a hundred-and-twenty to hang George Joseph Smith, the "brides in the bath" murderer. There was no waiting crowd of curious folk queued up every morning to gain admission, because the whole proceedings, before Mr. Justice Darling only lasted a few hours of a single short day. Kitty Byron was indicted and sentenced to death in fashion so expeditious as to cheat the sensation-mongers and the students of human nature of what was merely their due.

The present writer had remarked elsewhere that a serious crime is robbed of any interest where the evidence adduced to prove its commission is purely direct. In other words, it is only where the prosecution relies on circumstantial evidence, to be carefully linked into an unbreakable chain, that public interest can be kept from flagging. But there must always be the exception, where the protagonists, in themselves, can supply the food for this interest of which we speak. Here was a silk-hatted and frock-coated London stockbroker murdered in Lombard Street at noon on a busy day by a girl of twenty-three, well-dressed and pretty. City crime is very rare, and it is not every day a stockbroker is murdered there.

The facts of the case are fairly simple, though the origin of Kitty Byron does not appear to have been disclosed at any time.

At midday on November 10th, 1902, this girl entered the post office that is situated in the passage leading from Lombard Street to King William Street. She sent an express message to the Stock Exchange and waited in the office, anxious and impatient, for a reply. She had done this on several previous occasions.

The messenger was unable to find the person to whom the letter was addressed. The girl was greatly distressed on hearing this, and sent him out again. In due course he returned. This time he was accompanied by the tall-hatted and frock-coated stockbroker, to whom the note had been addressed, Arthur Reginald Baker. In a few moments he lay stabbed to death by this frail, pathetic figure of a girl.

The story of this unusual type of crime was told before Mr, Justice Darling at the Old Bailey when on December 18th Kitty Byron was indicted for the wilful murder of Arthur Reginald Baker. It was shortly before old Newgate and the adjacent buildings were demolished. Men and women crowded the inconvenient old court to the point of suffocation. The prisoner looked little more than a child, and was obviously frightened by the proceedings and by the crowds about her. The late Mr. Charles Matthews, most incisive laywer who ever conducted a criminal prosecution, with Sir Archibald Bodkin, appeared on behalf of the Director of Public Prosecutions. Mr. Matthews told the sorry story in that thin, high-pitched voice which he could use with such cutting effect. Here his task was a light one.

Baker, the court was told, was a married man, forty-five years of age, and was a member of the Stock Exchange. He seems long to have been a wanderer from the straight path usually trodden by members of that close corporation, so jealous of its reputation. He had been cohabiting with the girl since July of that year, and had lived with the prisoner in Duke Street, Portland Place. There were constant quarrels up to the very morning the crime was committed. There was one on November 7th and their landlady, Mrs. Liard, gave them notice to leave on the following day. They did not go and on the morning of November 10th, Baker left the house at 10.30. When he was gone the landlady had a conversation with the girl, who apologised for the row on the 7th. Mrs. Liard

repeated to Kitty Byron some disparaging remarks Baker had made in regard to her. The effect was to excite the girl greatly, and to cause her considerable distress. She was then told she would have to go the next morning and to leave Baker. The latter owed Mrs. Liard rent and had given her a worthless cheque. He drank heavily and terrible uproars were heard at night by other inmates of the house. In his drunken rage he would threaten the girl, who would seek refuge on the landing. Not very desirable tenants for a house in the neighbourhood of Portland Place.

Poor Kitty utterly refused the landlady's suggestion that she should leave this man. She "loved him too much", and anyway she could get no job now as she had no character. Her work before had been that of a milliner's assistant. Baker's wife and children, it should be noted, were living with her parents in the West of England owing to his inability to support them, and he was almost penniless, living on money borrowed from his brother. This was the man this frail girl "loved too much."

After the fruitless conversation with Mrs. Liard on the fateful morning the girl left Duke Street and proceeded to the shop of Mr. Moore, a cutler, in Oxford Street. She said: "I want a knife with a long and strong blade. I don't want it wrapped up. Give it to me. I can take it in my muff." It was handed to her and she placed it, closed, in her muff.

From Oxford Street she went to Lombard Street Post Office and expressed the first letter for threepence-halfpenny. Her manner was the subject of comment by the Post Office employees. When Baker finally arrived there was apparently an argument, inside the buildings, as to which should pay the extra twopence. (Sending messages was cheap in those days.) It was "You pay it." "No, I shan't, you pay." All terribly trivial, it sounds. Then they went out of the Post Office by the door near Lombard Street entrance. The girl was seen standing at the top of the steps with the open knife in her hand. She descended and dealt Baker a blow with the weapon. He retreated and got to the wall of the building in front of the Post Office. Then followed two more blows, and one of these was fatal, so severe that the man survived it only a second or two.

There followed that instantaneous remorse which any student of nature would immediately associate with such a crime. The

wretched girl threw herself upon her victim's body crying: "Let me go to him. Let me kiss my Reggie." Inscrutable, perplexing sex; let the strides of civilization be ever so long, perplexing still.

Kitty Byron was, of course, immediately arrested, and taken to Cloak Lane police station. By a strange coincidence this building, where she spent the night, was on the site of the dead man's boyhood home. His pockets, when searched, contained only an empty sovereign purse, a card case, and a divorce court citation which named Miss K. Byron as co-respondent. At the station the girl made two distinct statements: One was: "I killed him willingly, and he deserved it." The other, "I bought the knife to *hit* him. I did not know I was killing him."

Mrs. Liard at the trial spoke to the drunken habits of Baker and testified that Kitty Byron was always sober, which makes her association with this man all the more amazing. Her statements at the police station meant nothing, of course, either one way or the other. She loved the man and was unhappy with him and was young, and had the long, long thoughts of youth.

So far as she was concerned Coleridge's lines from "Christabel" exactly fit the case:

> . . . . and Life is thorny and Youth is vain;
> And to be wrath with one we love
> Doth make for madness in the brain.

There was madness in this girl's brain that morning for she was wrath with one she loved. Little wonder, too.

Sir Henry Dickens, then Mr. Dickens, K.C., defended Kitty Byron with the utmost eloquence. He brought forward no plea of insanity; but he urged the impossible view that she bought the knife to destroy herself. "The Court in which we now sit," said Mr. Dickens, "will soon be demolished and in it there have been many tragic scenes and many terrible sights, but nothing so tragic and so pitiful as this young girl, on the very threshold of her life, standing there awaiting your verdict as to whether she is to live or die. May Almighty God be with her in this last hour of her trial."

Of course, she was not to die, though the jury found her guilty of murder, with the strongest recommendation to mercy, and Mr. Justice Darling sentenced her to death.

The learned judge in his summing-up had already told the jury that it was a mistake to think that it was only the prisoner's advocate who felt the tragedy of a trial of this kind. Did they not think that if he could gratify his own feelings he would not stop the procedure and say: "I would rather not try the case out." Their sympathy would not justify a verdict of manslaughter, but it would be a means of bringing before those far above them who had the prerogative of mercy anything which they thought justified that prerogative, although they had no right to let that sympathy actuate them in any other direction."

Tremendous interest was taken in a public petition for Kitty Byron's reprieve, and the offices of her solicitors were besieged by those anxious to sign their names. But this petition was never really needed, for before it could be presented to the authorities the Home Secretary had granted a reprieve.

CHAPTER SEVENTEEN

The Trial of Sir Roger Casement for High Treason

SIR ROGER CASEMENT, who over a long period of years had held many important consular appointments and had served his country well, was arrested at a lonely spot on the West Coast of Ireland in the early morning of Good Friday, 1916, in strangely dramatic circumstances, and was subsequently charged with the crime of high treason, tried, found guilty, and hanged at Pentonville Gaol on the 4th August in the same year.

There is an interesting commentary to be found in the diary of the late Colonel Repington under the date May 17th, 1916. It records his dining at Hartsbourne Manor, Bushey, and reads: "F.E. was in great form. He had succeeded to-day in getting Sir Roger Casement sent for trial. He said that he had heard that I knew Casement and did I think him normal? I said that I had only met him once at Brussels before he went off to the Congo, and that he was then apparently normal and very intelligent. He thought that Casement would certainly be convicted, but that whether the sentence would take its course would depend upon the Executive. . . . F.E. said that the capture of Casement was the only bit of luck we had had in the War." The "F.E." referred to was, of course, Lord Birkenhead, then Attorney-General.

The Trial at Bar at which Casement was found guilty was before the Lord Chief Justice, Lord Reading, and Mr. Justice Avory and Mr. Justice Horridge. The subsequent appeal to the Court of Criminal Appeal was heard before a Bench consisting of Justices Darling, Bray, Lawrence, Scrutton and Atkin. It was Mr. Justice Darling's lucid judgement that was a notable feature of this strange and unhappy case.

It is necessary to tell of the proceedings in the Court below in order to lay the tale of Casement's treachery succinctly before the reader, and to understand the purport of Lord Darling's judgment.

A Grand Jury was sworn before the Lord Chief Justice in the

High Court on the 25th May, 1916, when the war was at its height, and the casualty lists heart-breaking, to consider indictments charging Sir Roger Casement and a soldier named Daniel Julian Bailey with high treason. A true bill was found in each case. That of Bailey will not be referred to again here. There were twenty-three Grand Jurors, who remained standing for fifty-five minutes during the charge, in that portion of the court usually reserved for Counsel. Lord Reading who was wearing full-bottomed wig and crimson robes with the ancient gold "collar of SS.," explained that this was the first high treason charge for which a bill of indictment had been drawn under the Indictments Act, 1915, recently come into force to substitute simple for archaic phraseology. Much of the phraseology used in the trial may not have been archaic, but was none the less difficult for the layman to understand. The bill of indictment here was presented under a Statute of Edward III in 1351, and it dealt with "adhering to the King's enemies elsewhere than in the King's realm, to wit, in the Empire of Germany, contrary to the Treason Act, 1351."

In quaint, but simple words the "Particulars of Offence" were revealed. "Sir Roger David Casement, Knight, on the 1st day of December, 1914, and on divers other days thereafter, and between that day and the 21st April, 1916, being then, to wit, on the said several days a British subject, and whilst on the said several days an open and public war was being prosecuted and carried on by the German Emperor and his subjects against our Lord the King and his subjects, then and on the said several days traitorously contriving and intending to aid and assist the said enemies of our Lord the King against our Lord the King and his subjects; did traitorously adhere to and aid and comfort the said enemies in parts beyond the seas without this realm of England, to wit in the Empire of Germany."

The charges were divided into six overt acts. Three of these dealt with the incitement on various dates of British prisoners of war in Germany to fight for the King's enemies against the King. Two of the charges conceived the circulating of pamphlets in Limburg Lahn camp to the same end. The sixth charge was the most dramatic of all: "On or about 12th, April, 1916, he set forth from Germany as a member of a warlike and hostile expedition, equipped by the King's enemies, having for its object the introduction

and landing on the coast of Ireland of arms and ammunition intended for use in the prosecution of the war by the King's enemies against the King."

Sir Roger Casement, highly strung and nervous, faced a formidable array of counsel for the Crown in the crowded court; the Attorney-General, Sir F. E. Smith, K.C., now Lord Birkenhead; the Solicitor-General, Sir George Cave, K.C., afterwards Lord Chancellor, and now dead; Mr. (now Sir) Archibald Bodkin, Mr. Travers Humphreys and Mr. Branson. For the prisoner appeared Sergeant Sullivan, of the Irish Bar, Mr. Artemas Jones and Mr. J. H. Morgan. An outstanding feature of this trial was the magnificent defence put up by Sergeant Sullivan for the unhappy Casement. In his notable speech for the defence he broke down completely with sheer fatigue and emotion, so that the Court was adjourned.

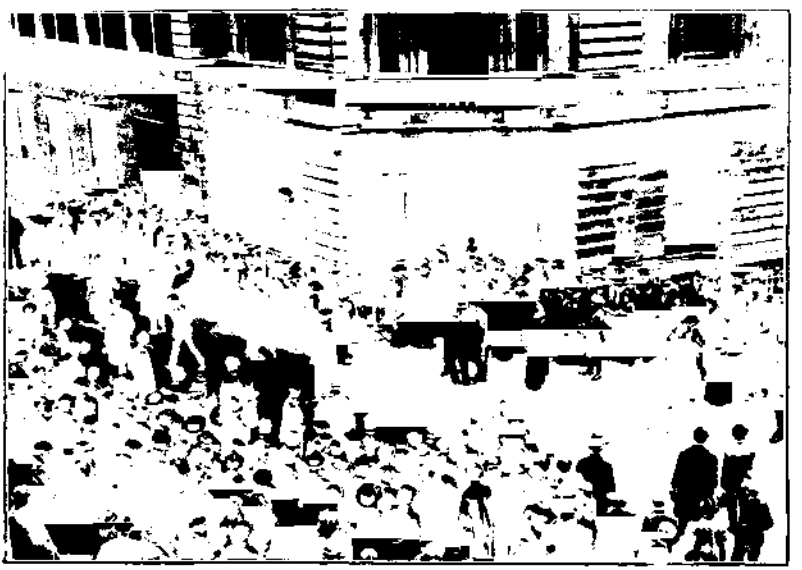
There is no need here to go through the evidence in detail. Briefly it showed that Casement had been for nineteen years employed under the Foreign Office, and in 1913 had been Consul-General at Rio Janeiro. He had been knighted in 1911 and there had never been the slightest reason to doubt his loyalty. At the outbreak of War there was no indication of what he was doing, but in December, 1914, he was found in the camp at Limburg. The evidence of exchanged wounded prisoners told of his activities in the camp, then and subsequently. The number of Irish prisoners at Limburg sometimes reached 2,500. Casement visited them freely, coming and going at will although a British subject. A strange situation indeed. All the evidence proved that he addressed these men soliciting them to join an Irish Brigade to fight against the British Empire. If Germany won a sea battle the Irish Brigade was to be landed in Ireland. If not they were to be sent to America and paid a bonus in money. At the most fifty of these prisoners were seduced from allegiance out of the vast numbers in the camp.

Intense interest was betrayed in Court when the tale was unfolded of the dramatic incident of the empty boat being discovered in a lonely spot on the west coast of Ireland early on the morning of Good Friday, 1916, and the finding of arms, and of three persons on the shore, including Casement.

It was John McCarthy, a farmer of Curragh Haven, whose story kept the packed court agape, the simple farmer who went on Good Friday morning at twenty past two o'clock to say his prayers by

[*Photo Press*

THE TRIAL OF SIR ROGER CASEMENT
The prisoner leaving the Old Bailey after sentence of death



[*Topical Press*

THE SIR ROGER CASEMENT TRIAL CAUSED WIDESPREAD INTEREST
A crowd outside Bow Street Police Court awaiting admittance

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the holy well, and found the boat and ammunition. On his information a search was made and Casement was arrested where he was hiding in McKenna's Fort, described to the Court as "a Danish rath covered with brushwood." He carried no passport, and gave his name and description as Richard Morton, an author, of Denham, Bucks. In his possession was a green flag bearing the arms of the City of Limerick.

Much of the defence rested on intricate legal standpoints, which were ably dealt with by the Attorney-General and afterwards by Lord Darling in the Court of Criminal Appeal. Another claim on the prisoner's behalf was that the soldiers in Limburg camp had only been incited to join an Irish Brigade to resist the Ulster Volunteers after the War. Before the jury retired Casement was allowed to read a voluntary statement. As he was not on oath he could not be cross-examined on it. It could not possibly affect the issue. Lord Reading's charge to the jury was impressive. They were absent but fifty-three minutes and returned with their verdict of "Guilty."

When asked if he had anything to say before sentence was passed Casement read a long statement, written, he said, twenty days before, " as I wish my words to reach a much wider audience than I see before me here." It was a political, sentimental and nervous composition, too much savouring of "old, unhappy, far off days" to be quoted here in detail. Sentence of death was passed, all three judges having donned the black cap.

Lord Darling, then Mr. Justice Darling, presided in the Court of Criminal Appeal, the composition of which has been given above. Having listened to six-and-a-half hours' of legal argument on behalf of the appellant by Sergeant Sullivan the Court did not call upon the Attorney-General to reply, being in possession of his argument on the same issue at the trial. That issue is made clear in Mr. Justice Darling's judgement, a précis of which is given below. The judges retired when Sergeant Sullivan sat down, and returned into court twenty minutes later when Mr. Justice Darling delivered the unanimous judgement of the Court dismissing the Appeal.

The indictment of "adhering," he remarked, was said by the defence to be contrary to the statute 25 Edward III, passed in 1351. Having quoted the Act in Norman French he read a translation of the effective words as follows:

"Or by adhering to the King's enemies in his realm, giving to them aid and comfort in the realm or elsewhere."

The construction of those few words had given rise to all the arguments which had been addressed to the Court before whom the prisoner was tried and now appealed. Sergeant Sullivan's argument had been in every way worthy of the greatest traditions of the King's Courts, and it was from no want of respect that they had not called upon the Attorney-General.

The actual argument which Lord Darling then proceeded to dispose of was that raised by Sergeant Sullivan, that this statute neither created nor declared that it was an offence to be adherent to the King's enemies beyond the realm of the King ; and that the words meant that the giving of "aid and comfort outside the realm" did not constitute a treason which could be tried in this country unless the person who gave the aid and comfort outside the realm was himself within the realm at the time he gave it. The disposal of this argument was undertaken and accomplished by Mr. Justice Darling in a reasoned and masterly fashion. But the reading of his words in full is for lawyers and not laymen. There was one characteristic touch. Sergeant Sullivan had attacked the opinion of the great Coke in this matter. Lord Darling defended him, and drew easily upon his deep store of learning : "If they wanted the opinion of one who was not a lawyer they had the words of John Milton :

> "Cyriack, whose grandsire on the royal bench
> Of British Themis, with no mean applause,
> Pronounced, and in his volumes taught, our laws,
> Which others at their bar so often wrench."

So, to the music of Milton the appeal was dismissed, and Sir Roger Casement was in due course hanged for high treason. An application by relatives for the possession of his body was refused. He was admitted into the Roman Catholic Church shortly before his execution.

CHAPTER EIGHTEEN

The Hilldrop Crescent Murder
Trial of Hawley Harvey Crippen

NOTHING, in Byron's words, "can blazon evil deeds or consecrate a crime." Yet who can deny that there was a quality, quite out of the ordinary, in the interest shown, nineteen years ago, in the fate of that callous little murderer, Dr. Crippen, who killed and dismembered his wife under revolting conditions, because of his love for another woman? Something out of the ordinary in the way the reports of his trial were followed by all English-speaking people throughout the world. Something —one dare not call it a sympathetic interest—in the following, step by step, of the tale of the spreading of the net that was to enmesh him, and of the romantic story—none stranger was ever told—of the daring attempt at escape with Ethel Le Neve, who herself was later tried, and acquitted, on the charge of being an accessory after the fact in the murder of Cora Crippen. The frustration of Crippen's attempt to get away by means of the first practically successful experiment in the use of "wireless" will, of course, remain for all time written large in the long story of applied science.

It is not an exaggeration to declare that no murder trial during the last forty or fifty years had excited such widespread interest as this, and there is no doubt either that Crippen's personality was largely responsible for it. He was sentenced to death on October 22nd, 1910. The trial of Ethel Le Neve began at the Old Bailey three days later. She left the Court a free woman, and Crippen, her lover, was executed at Pentonville on November 23rd.

Like most condemned criminals, since the opportunity has been afforded them, he sought the intercession of the Court of Criminal Appeal, without success, on the 5th November. There, Mr. Justice Darling, the senior judge on the Bench, had the last word to say in all this strange, shocking, yet fascinating story. His judgement will be referred to later. Meanwhile, the points of the crime must be recalled in some detail, for a generation is arisen unfamiliar with them.

For a beginning it should be pointed out that Crippen was an American and the woman he murdered of mixed descent, a Polish or Russian American. Many of the great crimes in England have been committed by foreigners, who have adopted this country as their own, and have come almost to believe themselves English. Dr. Hawley Harvey Crippen was born at Coldwater, Michigan, in 1862. His father was a man in a fairly good position and Crippen was trained for the medical profession. He first came to England when he was twenty-one years of age, and seems to have attended one or more of the London Hospitals. Later he took a diploma as an eye and ear specialist at the New York Ophthalmic Hospital. He practised his profession in various American cities, apparently never settling down in either to form a good connection, as a doctor always does in England. In fact, he seems to have been something of a charlatan and opportunist from the very first. He married his first wife, Charlotte Bell, at Santiago, and their son was living at Los Angeles at the time of the trial. Charlotte died and, still under thirty, he returned to New York and met a girl of seventeen known as Cora Turner, whom he married. Her real name he discovered later to be Polish and almost unpronouncable. They went to St. Louis where he practised his profession. She possessed a singing voice of doubtful quality which her husband helped her to have trained. The original idea, soon abandoned, was for her to go into grand opera. Crippen in 1900 came to London as manager for a business that advertised patent medicines and had offices in Shaftesbury Avenue. With his pleasant and good-natured ways he never seemed to find difficulty in getting appointments connected in some fashion with his profession.

Mrs. Crippen had been left behind in New York with her singing masters, but she soon followed her husband to London and without many tears announced that she would thenceforth make the London Music-hall stage the summit of her ambitions. She took the name of Belle Elmore—a name destined to acquire world fame in a way she little dreamed of—wrote sketches, saw managers, bought frocks and failed dismally to make any impression or to qualify in any way for the music-hall stage, for as was obvious to her friends she did not possess one scrap of native talent, and was quite unable to acquire any. At that time she was about twenty-seven years old, and had still ten years of life in London before her. She was lively,

dark and handsome; fond of gay clothes and bright Bohemian company. Crippen was then in appearance just what he was ten years later, when his photograph appeared on the police bill seeking information as to his whereabouts—wanted, with Ethel Le Neve, for murder and mutilation. A little sandy man with large domed head, moustache and gold-rimmed spectacles, "somewhat slovenly appearance . . . very plausible and quiet spoken, remarkably cool and collected demeanour." Cool and collected he was, to the last, and nothing if not plausible.

Crippen was undoubtedly very fond of his rather foolish wife, and loaded her with presents, probably far beyond his means. All their Bohemian friends were ready to testify to the kindly and affectionate treatment he invariably accorded her. This was in the early days in London. Conditions were to change, slowly but surely. In the little man's own written statement he tells of a man of whom she had grown fond, of her violent tempers and threats to leave him. Be that as it may, their home life continued along more or less conventional lines for a while. They had been living for a long time in Bloomsbury, but in 1905 moved to 39, Hilldrop Crescent, a modest, utterly respectable-looking house, in a secluded thoroughfare off the Camden Road. It was to become the most notorious domestic building in London. At this time Crippen was manager of the patent medicine advertising business referred to above. Ethel Le Neve was engaged there as book-keeper and secretary.

It were useless, in a short space, to attempt a description of the life which Crippen and Belle Elmore lived at 39, Hilldrop Crescent. It may best be described, by the use of a slang expression, as "hugger-mugger." No maids, although Crippen's income was all-sufficient to have kept at least one. The little man, early at his office, was even earlier to be found attempting to do housework and keep the place clean. For a time Mrs. Crippen took in boarders, that she might have, it has been stated, more money to spend in personal adornment. Everything seems to have been upside down in the house, misplaced, depressing; a great change from the early days in London.

And all the time—Ethel Le Neve in the background.

Although divested of any possible claim to the description of music-hall artist, Mrs. Crippen, as Belle Elmore, actually became honorary treasurer of the Music-hall Ladies Guild, and there was rented for the Guild one of the rooms in her husband's set of offices in Albion House, New Oxford Street, where he now found himself. In this way they met many well-known music-hall folk; the Martinettis among them. They entertained a great deal, largely at restaurants.

Amid the rush and weariness of this artificial state of existence, Crippen found himself turning, perhaps unconsciously, to Ethel Le Neve for a little peace and comfort.

The stage was set, though none of the actors knew it.

No one knows what was Crippen's real motive in murdering his wife. For it is obvious that so far as the Le Neve affair went he might have left the Hilldrop Crescent establishment and lived with the other woman, as more men in his place would have done. Many amateur psychologists have tried to discover what was working in the little doctor's mind, but one can hardly think with success. The theory has even been put forward that he did not mean to murder Belle Elmore at all, but being aware that hyoscin is used occasionally for alleviating certain rare and intractable physical conditions (in minute doses) he bought five grains and dropped the lot into her coffee unknown to her and unaware that five grains were bound to prove fatal. On reflection nothing can be found to support such a theory as this. It is more than likely that Mrs. Crippen, having possessed herself of most of his private fortune in the shape of money, jewels which he had bought her, and clothes, had threatened to decamp with the whole, and that he could not afford the loss; and, irked and worried with home troubles and his passion for Ethel Le Neve, had sought relief in desperate remedies.

Let us cease from speculation, however, and turn to dramatic facts, beyond all dispute. On January 1st, 1910, Crippen ordered five grains of hyoscin from a well-known firm of chemists in London. Nineteen days later the order was executed and this large quantity of a deadly poison delivered to him. He held it for nearly a fortnight before using it. Mr. and Mrs. Martinetti, who were old

[*Topical Press*

DR. CRIPPEN

[*Daily Mirror*

ETHEL LE NEVE
the woman who absconded with Crippen disguised as a boy

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friends and often in the house, came to dine at Hilldrop Crescent on the night of January 31st. They left Dr. and Mrs. Crippen in the early hours of February 1st with no signs of discord about them. From that moment she passed out of the world which had known her as completely as if she were dead, which, indeed, she was, poisoned with five grains of hyoscin administered to her by Crippen. He reported her absence to friends immediately. It was said she had gone to California. As Mr. Muir, afterwards Sir Richard Muir, stated in his opening speech for the Crown at the trial, she left behind her everything she would have left if she had then died, money, jewels, furs, clothes, home and husband. Crippen at once began to convert her property into money, and on March 12th Ethel Le Neve, who had already been seen by friends wearing a brooch and furs belonging to Belle Elmore, went permanently to live with him at 39, Hilldrop Crescent.

Crippen, said Mr. Muir, was therefore quite certain his wife would never return.

Muir was never more brilliant than in this opening speech for the Crown and in his conduct of the case throughout, which was tried before the Lord Chief Justice, Lord Alverstone. The terrible story was unfolded to the hushed court with dramatic effect. Crippen started a campaign of lies to account for Belle Elmore's disappearance. There was the sudden visit to America. On March 23rd he told Mrs. Martinetti he had received very bad news from America and was expecting worse. He telegraphed to Mrs. Martinetti on 24th March stating that Belle had died on the previous night. An advertisement appeared in the *Era*, the stage paper, to that effect. He then went for a change to Dieppe with Ethel Le Neve.

But Belle Elmore's lady friends in the Guild were not at all satisfied and kept asking awkward questions. Then came his interview with Inspector Dew, who played so big a part in the development of the case. To the Inspector he said: "It is untrue what I have told them about her death. So far as I know she is alive." This was on July 8th. Dew and Crippen lunched together that day at the Holborn restuarant, near the latter's offices. Crippen was already preparing to fly. Rap after rap was falling on the door which led to discovery, and the little doctor knew it. Dew went over the house at Hilldrop Crescent and found nothing suspicious. On the following day Crippen and Le Neve had fled. Inspector Dew

visited the house again and searched. Then again for further searching. On the 13th he discovered beneath the brick floor of the coal cellar human remains. They were the only portions of the headless body the murderer had buried there. What he had done with the rest has never been ascertained. These remains were wrapped in a pyjama jacket belonging to Crippen.

A description of Crippen and Miss Le Neve had already been circulated by the police on July 11th, and a warrant was issued for their arrest on the 16th. On July 20th the s.s. *Montrose* sailed from Antwerp for Canada with Crippen and Le Neve on board disguised as father and son, Mr. and Master Robinson. Captain Kendall of the *Montrose* sent a wireless message to England, which resulted in Inspector Dew and Sergeant Mitchell sailing from Liverpool in the *Laurentic* and arresting the fugitives at sea off Father Point. There were extradition proceedings in Quebec, and not until August 20th did the tragic little party sail for England. There followed Bow Street; and Crippen's trial at the Old Bailey. Between these two dates the remains of the unhappy victim, which clearly showed Sir Bernard Spilsbury the cause of death, were buried at Finchley Cemetery. At his sentence Crippen was the calmest man. Everyone connected with the case spoke well of his behaviour up to the very last.

Crippen's appeal against the sentence of death was heard before Mr. Justice Darling, Mr. Justice Channel and Mr. Justice Pickford.

Mr. Justice Darling's judgment was chiefly concerned with a legal argument concerning rebutting evidence. It was argued, however, on behalf of the appellant that there was no proper evidence before the jury to establish the fact that the remains found at Hilldrop Crescent were those of a woman; and in any case that they were the remains of Cora Crippen. The Court of Appeal thought that in both cases there was sufficient evidence.

After dealing with further arguments of a technical nature, Mr. Justice Darling announced that on all the points taken the appeal failed.

And that is the end of the story, very briefly told, of the famous Crippen Murder.

CHAPTER NINETEEN

The Brixton Taxi-Cab Murder
Strange Story of Alexander Campbell Mason

IT was after Mr. Justice Darling's retirement from the Bench, but when he temporarily returned to work in the summer of 1923, that he was concerned in the Court of Criminal Appeal with the dismissal of the Appeal of Alexander Campbell Mason, a young Scottish cabinet-maker, sentenced to death by Mr. Justice Rigley Swift for the murder in Brixton of a taxi-cab driver named Jacob Dickey. Mason was afterwards reprieved by the lately ennobled Mr. Bridgeman, then Home Secretary. The late Sir Richard Muir, who prosecuted at the trial, used to say that Mason owed his life to a certain storm which raged on a certain day. The facts of the case are strangely interesting, however much the storm in question may or may not have helped to decide the man's fate.

There is a Chicago gun-man flavour over the story of the crime, and the man whom the defence alleged was the murderer certainly was an American, with a very bad record.

Of the crime itself the facts are very simple and quickly told. On the night of May 9th, 1923, a young man chartered a taxi-cab in the West End of London, and asked to be driven over the river to an address in Brixton. The driver's name was Jacob Dickey, and it was proved that he had no previous knowledge of his fare and was a man of unblemished character. Any other driver, picked up by chance, might have been the victim of this dastardly crime. In Baytree Road, Brixton, a number of people saw the driver struggling with a man. Then revolver shots were heard, and Dickey was found lying in the roadway mortally wounded. His assailant had disappeared. Most murderers leave something behind them, however trivial, which may or may not help in their detection. Here the police found a number of things. There was an ebony stick with a gold-knob and pencil holder, an unusual object to find in such circumstances. There was also a seven-chambered revolver of American make with one loaded and six empty cartridges in the chambers, a

pair of suede gloves and a heavy iron jemmy. Whoever the murderer was it was evident that he had already graduated in crime. The stick was to prove an important clue, and Scotland Yard, has, of course, a list of firearm-carrying criminals. The police engaged in investigating the case soon turned their attentions to a young American named James (Eddie) Vivian. He had been seen carrying a stick similar to the one of ebony and gold found by the side of the murdered man in Brixton. This was good enough to begin with, and before long Vivian was discovered at a house in Pimlico, where he was living with a woman.

This man Vivian was of an extremely unpleasant type, unhappily only too common in London, and the police apparently knew all about him and his associates, equally nasty. Probably he and Mason were about as bad a pair as it was possible to find in the town. However, he seems to have been able to convince the police that the gold-knobbed stick had been in the possession of Mason on the night in question and he was destined to become the Crown's chief witness. Mason was known to the police and they set out to find him. It did not take very long. For all London's seven million inhabitants a "marked" man stands very little chance of evading official recognition. An officer saw Mason in the Strand and took him to Brixton station where he was charged with the murder of Dickey.

Mason had none of the appearance of a desperate criminal, but it was shown that he had only lately been discharged from a Scottish gaol, and he himself confessed that he was greatly in need of money. A strange thing for a man in such straits to risk his neck for a taxi-driver's day's takings, when there is so much bigger game in London.

Mason was committed for trial at the Lambeth Police Court, and it is important to note, in the light of subsequent events, that he desired to give evidence there on his own behalf, and that the magistrate advised him not to do so until he could be legally represented.

Sir Richard did not like the case from the beginning, because Vivian, his principal witness, was a man upon whose evidence it would be unsafe to convict any prisoner. One can well imagine this for, as has already been stated, Vivian was as bad and objectionable a person as it would be possible to find.

At the trial, full of strange situations, Mason's story was that they had been together and that it was Vivian who had shot Dickey.

He continued that he had been overtaken by fright when he realized what had happened, and heard the police whistles. That he had done the most natural thing to do and had fled the scene. Then, he continued, he had climbed a wall and entered a house where a woman barred his way. He managed to frighten her into allowing him to pass through the house. He ultimately escaped from the neighbourhood and made his way back to the Pimlico house—in Charlwood Street—where he found Vivian already home and waiting for him.

This was the story from the lips of Mason, which was regarded by some at the time as not improbable—there was enormous public interest in the case and much speculation concerning it—and which should have been told at Lambeth Police Court. It was, of course, utterly discredited by not being told until Mason stood in the dock at the Old Bailey, and Vivian was secure in his position as the Crown's chief witness. The matter, at the trial, produced one of those *legal* discussions which seem to be a feautre of all murder cases, where the layman would look for the acceptance or rejection of facts only. Think of the long and anxious discussion in the Armstrong poisoning case as to whether Mr. Martin's evidence was admissible or not, and what a difference its admission made to Armstrong. It is idle to speculate here as to what might have happened if Mason had told this story in his defence at Lambeth. It is only necessary to record here that he did not. But it is obvious that an accused man should disclose his defence at the earliest possible moment, for if true the opportunity will be afforded for evidence to be brought to support its accuracy and the chance of an acquittal be increased.

But it was Sir Richard Muir himself who once remarked, in another murder case, that there would have been no defence at all had not a few weeks been available to concoct one. And this is, of course, the case in nearly every murder trial, but with this reservation—where the prisoner is guilty. If he is innocent there is no earthly reason why he should not tell the true story of his movements, or connection with the crime, to the magistrate.

When this delayed defence of Mason's was revealed in Court a crazy situation automatically arose, in that Sir Richard Muir found himself in the position of having at one and the same time, to prosecute Mason and defend his chief witness, Vivian; a very distasteful task, one would imagine, for a man of Sir Richard's

temperament. After the trial, it may be noted, Vivian himself appeared in the dock at the Old Bailey, by way of a change from the witness-box no doubt, on a charge of burglary in conjunction with a man named Dawson, and here he again attempted to "rat" on his fellow prisoner.

Mason created a good impression by the frank manner in which, before he was sentenced, he stood up in the dock and admitted that he had had a fair trial and had nothing to say against the verdict. All he had to say on his own behalf was that some one might possibly care to investigate the case further so that the story he told might be substantiated before it was too late.

Whether this suggestion of Mason's had anything to do with the subsequent action of the Home Secretary we cannot say, but after the dismissal of the appeal Sir Richard Muir was informed that Mr. Bridgeman felt some doubt as to whether the conviction of wilful murder was justified. As a result, Sir Ernest Blackwell, legal under-secretary at the Home Office, Sir Archibald Bodkin, Director of Public Prosecutions, and Sir Richard Muir visited in company the scene in Baytree Road, and made an inspection of the place including the walls and gardens mentioned during the trial. It is likely that Mason owes his life to this visit, for a strange mistake was discovered. The plan which had been prepared showing how he had made his escape was a tracing of the Ordnance Survey Map. Since that map had been made there had been big alterations in the lay of the land. The Ordnance map had not been altered, and the plan made from it and which was used in Court, did not show the true position of the walls and fences over which Mason, it was alleged, had climbed after shooting Dickey. When Sir Richard Muir inspected the scene of the murder after the appeal was dismissed he remarked that if he had seen the place before the trial he could have demonstrated to the jury *beyond all possible doubt* that it must have been Mason who fired the fatal shot.

The reader may argue that the jury found Mason guilty and that therefore it had been proved to everyone's satisfaction that he did fire the fatal shot. As a matter of fact, it had *not* been proved to everyone's satisfaction, or why the reprieve? What Sir Richard meant was, of course, that he could have satisfied even the doubting ones if he had previously been over the ground, and that there would have been no reprieve.

JACOB DICKEY
The victim of the Brixton Taxi-Cab Murder

Topical Press

ALEXANDER CAMPBELL MASON
who murdered Dickey in his Taxi

The turning-point in the whole case was the manner in which the murderer escaped. A woman at her gate swore that the man who fired the shots got over a wall at a spot she could indicate. The track of this man (who the woman swore fired the shots) led to the garden of No. 15, Acre Lane, through which Mason himself admitted he escaped. The prosecution attached great importance to this point and Sir Richard had the positions of the walls and garden thoroughly, as he thought, explained to him.

But if Sir Richard Muir felt that he could have satisfied even the doubting ones if he had gone over the ground before the trial, those who like to see everything through to the bitter end may justly ask: "Why did he not go over the scene of the murder?"

Mr. Felstead supplies the answer to the question, and the explanation to the contention that Mason probably owes his life to a heavy rain-storm.

Sir Richard *did* go down to Baytree Road (in accordance with his usual practice) at the conclusion of the first day's hearing of the case at the police court. He drove there with Superintendent Carlin of Scotland Yard in that officer's car, and on that day there raged a terrific storm; the storm that Muir said saved the condemned man's life. For instead of getting out of the car and going over the whole ground himself in the pouring rain he contented himself with what was nothing more than a cursory examination; relying on descriptions of the walls and gardens given to him.

That is the whole of the story, and how far Sir Richard Muir was right or wrong in his assumption may safely be left to the reader.

Mason, after his reprieve, was sent to penal servitude for life.

CHAPTER TWENTY

The Great Romney Picture Case
Mr. Justice Darling at His Happiest

THE great Romney Picture Case, as it came to be called, was tried before Mr. Justice Darling in King's Bench Court IV in the Law Courts in the Strand, and occupied seven days before its dramatic termination robbed the public of one of the best shows the town had known for a long time. This was in May, 1917. There was no recrimination and no bitterness between the parties; no suggestion of fraud; and when the sensational end came the loser took the verdict manfully. All this being so there was no particular need for Mr. Justice Darling to hold in check his brilliant wit, or to refrain from dipping into his deep store of knowledge to illuminate the case as, day after day, it meandered along. A writer in a contemporary at the time remarked that it would have been almost a public misfortune if the case had come before any other than our most worthy and versatile judge. Mr. Justice Darling contrived, in the course of the case, to quote Matthew Arnold ("something, not ourselves, that makes for righteousness") Shakespeare ("two Richmonds in the field" and "Out, damned spot!"), Wordsworth ("the light that never was on sea or land"), Disraeli ("a critic is a man who has failed in literature or art"), Dickens ("Bill Stumps, his mark"), an anecdote of Sir Joshua Reynolds, Goldsmith ("contrived a double debt to pay"), Tennyson ("the gardener smiled at claims of long descent"), and Locker-Lampson's lines:

> Were Romney's limning true,
> What a lucky dog were you,
> Grandpapa!

Mr. Justice Darling had (and retains as Lord Darling) an extraordinary wide knowledge of English literature and that of other countries, France and Italy in particular. Strangely enough, he knows, on his own confession, not a word of Greek. The above list

shows too, the possession of a wonderful memory and a gift for applying it instantaneously. Many so-called wits are known to have carefully prepared and memorised beforehand what they intended to use by skilfully leading up to the subject in dining-room or club conversation. That is impossible in a Court of Law.

A section of the Press, quite small, were inclined to scold the learned judge over his conduct of this case. They should have recalled the well-known words of Horace *"Ridentem dicere verum, quid vetat,"* or "Why may a man not speak the truth in a jocular way?"

However all this may be, it is certain that the Law Courts rarely afford such a treat as was this Romney Picture Case, which, in other words, was the case of Huntington v. Lewis and Simmons, and in which Mr. Henry Edward Huntington, of New York, sued Messrs. Lewis and Simmons, of New Bond Street, for damages for alleged breach of warranty on the sale of a picture. Sir John Simon and other distinguished counsel appeared for the plaintiff, and the defendants were represented by Mr. Leslie Scott, K.C., and Mr. Conway. The questions at issue were whether the picture was painted by George Romney, as guaranteed; whether it was a picture of the famous Mrs. Siddons and her younger sister, Miss Fanny Kemble; whether it was the identical picture mentioned in the book "Romney: a biographical and critical essay", by Mr. Humphry Ward and Mr. W. Roberts; and whether the entries in Romney's diary from December 3rd, 1776, to January 14th, 1777, really referred to a painting of Mrs. Siddons.

Here was subject-matter for a genteel and intellectual entertainment, with genuine 18th-century properties. The picture stood on an easel on the right of the judge. In February, 1912, it had been sold at an auction in a country house at Godalming for 361 guineas to Mr. J. Roe, an art dealer. It was described in the catalogue as a picture by Sir Joshua Reynolds. The picture passed from Mr. Roe to the defendants for £717. In April, 1912, Mr. Holder, a picture-cleaner, had the picture in his hands, and his bill described it as a "picture of two ladies—Romney." On May 7th, Mr. Roberts, part author of the book, made a hurried report, in which he said the picture was a fine Romney and that the ladies were Mrs. Siddons and Miss Kemble. In June the picture was sent to Paris, and in September to New York, where it was declared to be a painting of

two sisters by Romney and the date was given as 1785. The defendants sold the picture soon afterwards to Mr. Huntington for 100,000 dollars. Enquiries at the house in Godalming showed that the picture had been bought in 1875 with no authorship and no description. The family got into the habit of calling it a Reynolds and speaking of the ladies as the two Miss Lindleys.

Sir John Simon traced the life of Mrs. Siddons, born in 1755, daughter of Roger Kemble, a strolling player, who went the Oxford Circuit.

His Lordship: Before my time, I am afraid.

Sir John Simon added that she was given an engagement by Garrick when she was twenty to appear as Portia at Drury Lane. She was a frightful failure.

Mr. Justice Darling: Many people when they hold their first briefs are.

The crowded court was settling down to enjoy itself, while Sir John Simon traced the history of Mrs. Siddons. In 1783 Romney, Gainsborough and Reynolds all painted her. When Romney was alleged to be painting Mrs. Siddons and Miss Kemble in 1785 he was engaged on the famous group known as "The Gower Children."

Expert witnesses now began to enter the box. The Hon. John Collier could not say enough that was bad for the picture; it was not painted by Romney. It might be the work of a miniaturist who had taken to full-length pictures. Ozias Humphry, the miniaturist, was a friend of Romney and he did take to painting. Wise Mr. Collier. Your own paintings may be problem pictures, but this one on the easel by the learned judge presented you with no difficulties. And yet probably not more than one person in fifty in that court had ever heard of Ozias.

Sir John Simon asked his Lordship's permission to bring some real Romneys into Court.

His Lordship: You may leave them here permanently if you like. A reference to Sir William Richmond, R.A., and his father drew from the Bench the remark "There were two Richmonds in the field." Sir Edward Poynter, R.A., and Sir Luke Fildes, R.A., followed Mr. Collier in quick succession and agreed the picture was not by Romney. The question arose as to whether good painters did not occasionally produce bad work, and Mr. Justice Darling remarked that he remembered a picture by Reynolds with a very

poor tiger in it. It was explained that he had not got a live tiger at hand when he was painting the picture.

Sir Walter Armstrong, Director of the National Gallery of Ireland, said he believed he was the author of the biography of Romney in the Dictionary of National Biography.

Mr. Justice Darling: That is a very cautious answer for an expert.

"My name is to it, but I do not remember writing it," explained the witness. He was added to the list of the "not by Romney" band. The Court was becoming like a picture gallery. A painting by Ozias Humphry was produced and was declared to bear a strong resemblance to the work in the disputed picture. Mrs. Siddons's poor figure and knock-knees were so freely discussed in the Court that the poor lady must have turned in her grave, and all because of the bad work of the artist who really had painted the picture in dispute. But it caused no end of good-natured merriment in Court IV. One witness failed to see in the picture signs of unwieldiness, and the judge reminded the Court that in 1776, Mrs. Siddons was able to raise herself on her own merits. Still more experts passed to and fro from the witness-box. One valued the disputed canvas as 360 guineas, plus the value of the frame. In a discussion of pigments from the chemical side, Mr. Justice Darling was reminded of the story of the young artist and Sir Joshua. "Tell me, sir, what do you mix your paints with. I want to produce the same effect." And Sir Joshua replied: "With brains, sir." One confident expert was asked by Counsel what was his strong point, and his lordship was ready with the answer: "I should say it was in giving evidence."

The last piece of evidence for the plaintiff was interesting. It was an extract from the *Candid Review*, noticing the pictures in the Royal Academy in 1780. Against entry 146 appeared:— "Portraits of two ladies by Ozias Humphry. Very strong likeness to the Ladies Waldegrave."

The defence in this interesting suit was conducted in the same cheery way as had been the plaintiff's case. Sir John Simon vied with his lordship in brightness and there was not a dull five minutes, yet the whole time the shade of the little-known Ozias Humphry was about the Court. The expert witnesses came up for the defence to prove the picture was by Romney. Mr. Justice Darling had a good-natured encounter with Mr. Lewis of the defendant firm over "knock-outs" at picture auctions.

One witness showed a number of sketches which, he said, had been produced by Romney as illustrations to poems by Haley.

Mr. Justice Darling: Long ago Sir Frank Lockwood and I had a scheme for the decoration of the Law Courts. He was going to do a lot of designs—suggestions for windows and mural paintings in the Hall. I was going to do exactly the same as Haley. I have got one or two little things that he did, but the thing never came to fruition.

. . . . . .

It was on the seventh day of the hearing that this action ended abruptly. Mr. Leslie Scott said he had intended to call more expert evidence for the defence that morning, but since the hearing on the previous day a dramatic thing had happened. A photograph of an original sketch, by none other than Ozias Humphry himself, with his initials, "O.H."—the H. inside the O. as was the method of his signature—had come into the possession of Mr. Lewis, of the defendant firm. The photograph was lent confidentially to Mr. Chetham, the solicitor for Mr. Lewis. When the latter saw it he felt it was essential in the interests of justice, that it should be brought to his Lordship's knowledge. Sir John Simon stated that he also had received information of the existence of this original sketch, and had taken steps to have the sketch in Court. By independent channels both plaintiff and defendant had got on to the track of the same sketch.

Mr. Justice Darling said there could not be the slightest doubt that it was the original sketch for the disputed picture.

And the original sketch? Well, that is in the library of the Royal Academy, not indexed under the name of Ozias but bearing that much maligned gentleman's cipher exactly.

The defence recognized that in these circumstances there was an end to the case. Mr. Lewis desired to say that he would at once take the picture back; repay to Mr. Huntington the £20,000 which had been paid, with interest, and also pay the taxed costs of the action, which would be very heavy. He also offered the picture to the National Portrait Gallery or the Royal Academy, as it was practically the only important work in oils surviving from that artist, Ozias Humphry.

Mr. Justice Darling (intervening)—He has not thought whether the Law Courts have a claim.

Sir John Simon: We might have a "knock-out".

CHAPTER TWENTY-ONE

Lord Darling Tries Four Burglars

LORD DARLING, as a judge, was understood, misunderstood, appreciated and depreciated in fashion so heterogeneous, that it needed his retirement, after more than twenty-five years' unflagging service, to evoke such a universal and unequivocal expression of regret as never was in similar circumstances. The writer has read hundreds of comments on his career which appeared in print on this occasion, and cannot remember one that contained a word of harsh or unkind criticism. They were not only English, but French, Italian, Canadian and American.

The truth is, of course, that Lord Darling was a great judge, a humorist, a wit, and even a great lawyer; though he himself, in proclaiming his affection for the Common Law of England, has confessed he didn't know half of it. Indeed, who does?

In his conduct of the cases that came before him he adapted himself very largely to the conditions. Take the Great Romney Picture Case, for example. Both plaintiff and defendants were wealthy men. Whichever lost would be in no tragic plight, though £20,000 hung on the issue. Whichever won would have no reason to gloat over his victory. There was no mutual recrimination. The atmosphere of the court was gay and neither judge nor counsel desired it otherwise. The seven days' hearing was a period of delight to all who managed to obtain admission to the Court.

One may take the case of Steinie Morrison, the Clapham Common murderer, as an example of how a totally different class of trial was conducted by Mr. Justice Darling. The majesty of the law, the gravity of the situation, and the deep anxiety that the man in the dock should have justice meted out to him were reflected throughout in the face and manner of the learned judge. Death and terror lurked about the dock; this was no time for quips and badinage; and in his utter fairness Mr. Justice Darling would, we know, have seen Morrison acquitted on the evidence which the Crown produced. People have talked of Lord Darling's iron severity and

unbending purpose in these grave criminal trials, but it was the habitual criminal himself who knew him best. It is recorded that on one occasion an old crook, distinguished in his profession, remarked that when he was guilty he liked to be tried by Mr. Justice ——, but when he was innocent he preferred Darling. A very subtle compliment.

Lord Darling's work, as a judge, in the Court of Criminal Appeal, has been justly valued. When presiding over this tribunal he has always proved a strong president of a strong court. Only once in this court do we remember a flash of cynical humour, that was certainly not intended, however, to raise a laugh. Counsel was pleading, quite seriously, that the appellant was a person of good character against whom nothing but murder had been alleged.

"Unfortunately," replied his lordship, "I have had to sentence to death too many persons who bore the highest character to enable me to give that argument more than its due weight."

In small cases of burglary and larceny Lord Darling would sometimes "let himself go", and one would often find the prisoner in the dock laughing heartily with the rest of the Court. But this depended entirely on the conditions surrounding the case. One, of the nature suggested, was the trial of four men for burglary, at High Barnet.

The facts here were certainly suggestive of a Gilbertian situation, with something of the Policeman's Song about them. We will suppress the real names of the men as they have long since served their sentences and may be leading the most respectable lives to-day. Suffice it then, to know them as William Blank, widower of a day or two's standing, and three friends David Snook, William Peters and Robert Hind.

That a funeral should sometimes have the effect of adding a light touch to the day's work is regrettable, but true. William Blank had just suffered a severe bereavement in the death of his wife. His friends Snook, Peters and Hind attended the funeral at Finchley and, we may be sure, offered such consolation to the widower as was within their power. In Ireland, in some districts of Liverpool, and perhaps elsewhere, a funeral is the excuse for a certain amount of good fellowship and even levity among those who are left to mourn. In London, and in Finchley, it is possible that insufficient attention is paid to the provision of "baked meats", which, in a

wide sense of the term, assist in producing this happy state of mind.

Something, however, had to be done, so after the interment the bereaved man, Blank, was escorted by his three friends, Snook, Peters and Hind, to a near by tavern. There they did what they could not do at home, and what many others suffering from unallayed grief would have done. They had several drinks apiece. None can say exactly how many, but enough to shed a rosy light over prospective law-breaking or to make it attractive even.

The matter was talked over and the three friends of the widower came to the conclusion that, while it was all very well for Blank to have a day off, they themselves on account of their deep sympathy for him had lost a day's wages. They decided, then and there, to recoup themselves by committing a burglary.

No one will deny this being a *bizarre* situation, and it was highly appreciated in Court later on.

The widower was a "sport" and not to be done out of a little burgling because he had just buried his wife. It is possible, too, that he did not like the idea of being left alone. So he went along with the others. They all boarded a tram and travelled on the great high road to the terminus at the pleasant old town of High Barnet. Descending, they undertook a little exploration work, and discovered Normandy Avenue.

The marvel is that some burglars do not attract sufficient attention in executing their preliminary staff work, so to speak, as to render the commission of the intended crime subsequently impossible. The widower and his three friends loafed about this quiet road till dozens of pairs of eyes must have been watching them from behind lace curtains. But nothing happened to hinder them in their fell purpose. They, in due time, saw a woman leave a house in the Avenue. When she had gone from the street and was lost to sight Snook and the widower knocked at the door. Receiving no reply they burst the door open and went in, bolting it behind them.

This is, of course, the most elementary form of burglary, entailing great risk. It was not worthy, except for its lighter side, of a charge before Mr. Justice Darling.

Blank and Snook explored about inside, looking no doubt for more "baked meats", and forgetful that but for those already consumed they would not then have been in that precarious position.

Peters and Hind loafed around outside, keeping guard and ready to give warning. Then a postwoman came along with a registered letter, to be delivered at this particular house. She did not see Peters and Hind but proceeded to knock at the door. She received no answer but heard sounds within. Blank and Snook were having a little discussion together. Then she heard voices, and then "language". It was language subsequently described by Mr. Justice Darling as "of such a quality that even a vicar was not likely to use it to his curate over a cup of tea."

The postwoman knew the occupant of this house to be a pious churchwoman, and she was naturally surprised at the behaviour of her men visitors, as she supposed the owners of the voices to be. Blank and Snook, of course, in the heat of their argument, had forgotten their friends outside and the danger of the position in which they found themselves, with someone banging on the door. The postwoman became suspicious and knocked again and again. Still "language" within but no admission.

Peters and Hind who were watching from cover now thought the time had arrived for them to take a hand in the business. They thought the woman would raise an alarm, so they went to the gate and asked if she had a letter for them. She did not answer, so Peters, inspired for the moment, said :

"Give me the letter and I will give it to my aunt when she comes in."

The postwoman very properly refused, and Peters and Hind then indulged in a little "language" themselves and swore roundly at her. Their nerves were probably getting a little frayed by this time. The postwoman then went away, for there was little point in staying. She called at the police-station and spoke to the inspector. He sent three officers with instructions to arrest the men if they could give no satisfactory explanation of their movements.

By the time the police arrived, however, the men had gone, and could be seen running across the fields in the direction of the tramway. The officers gave chase and Blank and Snook were arrested with stolen property from the house on them. Blank, with the earth not yet patted down on his wife's grave !

Peters and Hind, who only stood and waited, managed to escape for the time, but they couldn't live in the fields about High Barnet, and had to go home. Poor Mrs. Blank's funeral became the

[*Topical Press*

MR. JUSTICE DARLING ENJOYS A JOKE

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object of a police inquiry and the "mourners'" names were ascertained and these two were quickly identified.

Hind was found to be a ticket-of-leave man and was soon arrested. He was very violent and abusive, but when told he was to be put up for identification, and if not identified would be released, he was satisfied. He had a contempt for that postwoman.

He was put up with twelve other men of similar height and build, and the lady picked him out immediately. Once more his language became choice, in front of them all, and the postwoman was able to supplement her identification by recognising several of the oaths, he had used when she had refused to hand over the letter! It is interesting to note, however, that Mr. Justice Darling did not admit these oaths as corroborative evidence of identity.

Blank and Snook pleaded "guilty" and each received eighteen months' hard labour. Hind was found guilty by the jury and received a similar sentence, having moreover to complete the balance of his former sentence.

The last of the "mourners", Peters, was not to escape. He was arrested later, and once more the good offices of the observant postwoman were solicited. She identified Peters straight away and he, too, was sentenced to eighteen months' hard labour.

So ended the case of the Four Burglars. It has nothing about it, that makes it stand out among others, beyond its grotesque beginning in the cemetery. But it has been set forth as typical of the lighter kind of criminal case that comes before a great judge, like Mr. Justice Darling, to relieve the anxiety which must possess him like an illness when trying such men as Morrison, Armstrong or George Joseph Smith.

With reference to murder trials in this country, it should be recollected that Lord Darling introduced a Bill into the House of Lords in May, 1924, which proposed to give a criminal the right of a verdict of "not guilty" if it could be shown that at the time the act was done he was suffering from such a state of mental disease as therefrom to be wholly incapable of resisting the impulse to do the act.

This Bill was, to the surprise of many, rejected without a division.

One famous lawyer at the time remarked bitterly: "However, the Lords have established for a time the grand old maxim that it is better that an innocent person should be convicted than two guilty persons acquitted. A time will come."

CHAPTER TWENTY-TWO

The Brides-in-the-Bath Case
George Joseph Smith—Arch-Murderer

MANY columns of space, and the zealous aid of a professional psychologist, would be essential for the production of a paper, or article, which could claim to deal with the character of George Joseph Smith, even in the most sketchy fashion. Facts, then, with but a meagre allowance of analysis, must suffice here. Fortunately, there is no need for apology in the telling of the tale, however briefly, of the foulest brute in England's rogue's gallery; totally uneducated, with a repulsive physiognomy, and the meanest of minds, who spent his life in luring and robbing young women, and punctuated his career by murdering three of them (perhaps more) by drowning them in their baths. These women were Bessie Constance Annie Munday, found drowned on July 13th, 1912; Alice Burnham, found drowned on December 12th, 1913; and Margaret Lofty, found dead in her bath on December 18th, 1914. Smith was tried for the murder of Alice Munday, but evidence as to the other two crimes was allowed, after a legal argument. He was hanged, it should be remembered, for the murder of Miss Munday, the first of his victims, so far as we know. The permission of this evidence was discussed during the hearing of Smith's unsuccessful appeal before the Lord Chief Justice, Mr. Justice Darling and Mr. Justice Lush.

Smith's education had told him nothing about "Murder as a Fine Art" but none the less he invented a new method of committing it. He was a man, too, who was wont to gratify his animal passion for his victims to the very last; even while making his final preparations for their death. He was superlatively bad, and apparently always had been. He was born in 1872 at Bethnal Green, and hanged on August 13th, 1915, at Maidstone. His father was an insurance agent. The boy was sent to a reformatory for some sort of delinquency at the age of nine, and kept there till he was sixteen. He soon found himself in prison for a small theft, then followed six

months' hard labour for stealing a bicycle. Soon after this he served a term of twelve months' hard labour for larceny. One more sentence of two years' hard labour and he seems to have done with prison life; to have successfully graduated in crime, so to speak. He had married, too, in 1898, his only lawful wife, Caroline Beatrice Thornhill. She left him and went to Canada to be safe from him. The police authorities called her back to England in 1915, on the arrest of Smith. In any references below to his other "marriages" the inverted commas must be taken for granted.

The Brides-in-the-Bath murderer went through a form of marriage with numerous women in addition to those he killed. The names of some of these were suppressed at his trial. The strangest thing about it all is that to the very first of these, a Miss Pegler, whom he married at Bristol, he cleaved in some sort of fashion. This is not to suggest that he remained faithful to her or even kept her in comfort, but until the day of his arrest he always regarded the place where she might happen to be as a sort of base from which to sally forth on his excursions of robbery and murder. He would leave her for months at a time on the pretence of business calls, and she believed him throughout. He would come back to her, hot from murder, and make a pretence of setting up housekeeping, only to disappear again in a week or two. In this fashion he "stuck" to her for seven years.

Smith was tried at the Old Bailey. The trial opened on June 22nd, 1915. It lasted eight days, and involved the calling of some 120 witnesses. The labour falling on the shoulders of the police in working up this elaborate case can only be inadequately estimated, even by reading carefully the volume of evidence produced by the Crown. From it one is able to compile the following brief, but illuminating, narrative. It should be recorded here that Smith's judge was Mr. Justice Scrutton, now Lord Justice Scrutton. Mr. Bodkin, as he then was, with Mr. Travers Humphreys and Mr. Cecil Whiteley, appeared for the Crown; while Counsel for the prisoner were the late Sir Edward Marshall Hall, Mr. Montague Shearman, since raised to the Bench, and Mr. Grattan Bushe.

George Joseph Smith, when he really married Miss Thornhill was a baker in Leicester. When, in 1908 he married Miss Pegler, he was a second-hand furniture dealer in Bristol. He desired a housekeeper and selected this lady. Mention has already been

made of the curiously unsettled life they led. They lived in various places besides Bristol. In July, 1910, they took a second-hand furniture ship at Ashley Down Road, Bristol. A few miles away there was living in a Clifton-boarding house a Miss Mundy, daughter of a deceased Warminster Bank manager, possessed of a small fortune of £2,500, tightly secured, and in the hands of trustees. She lived on the income, about £8 a month, sent to her regularly. The trustees were holding some accumulated cash, amounting to £135 2s. 11d. Miss Mundy's property, consisting of shares and marketable stock, could only be disposed by her by will at her death. She might have been alive to-day but for that provision, intended to safeguard her against designing and unscrupulous persons. The quintessence of irony with a vengeance.

Somehow, not related, Smith met this lady, almost under the nose of the trustful Miss Pegler. He was passing then as Henry Williams; and it is perhaps unnecessary to say that he used many aliases in his time. After a short acquaintance they went through the marriage ceremony at a registry office on August 26th, 1910.

Smith was described as a picture restorer. He immediately went to her solicitors and obtained a copy of Miss Mundy's father's will, also of the settlement. He discussed the possibility of raising a loan on the settlement. He had the effrontery to get into touch with Miss Mundy's brother over these matters. In the end he got hold of the £135 2s. 11d. which lay in the trustee's hands. After receiving the money at a solicitor's office in Weymouth, he sent a telegram to himself at his lodgings, went home alone and opened it. He told the landlady it called him to London at once on special business. He departed with Miss Mundy's money in his pocket and the Weymouth landlady never saw him again. The trust monies were still untouched. On September 13th, he wrote her a letter grossly insulting her with regard to her state of health. On the same day he rejoined Miss Pegler at Bristol. It would have seemed that Miss Mundy was well rid of him by now. Unhappily for her it was not to be so. Some eighteen months later, in March, 1912, she was living at Weston-super-Mare. Without warning she met Smith there, and in spite of all that had happened, she fell under his influence immediately, like a rabbit hypnotised by a snake. A solicitor on their behalf wrote to Miss Mundy's brother to say that Mr. and Mrs. Henry Williams had adjusted their differences and were now living

[*Daily Mirror*

THE BRIDES-IN-THE-BATH CASE
George Smith, with one of his brides

couple of months in Kent with Miss Pegler, and left her saying he was going to Spain on business. His El Dorado this time, however, was Southsea where he took lodgings by himself.

The story of the fates of Miss Burnham and Miss Lofty cannot, unfortunately, be told in any great detail here. The evidence regarding their deaths was admitted to enable the jury to draw an inference whether the death of Miss Mundy was accidental, or designed by the prisoner.

On November 4th, 1913, Smith married Alice Burnham, who had been nurse to an invalid at Southsea. Her father held on her behalf a sum of £104. Smith wrote in peremptory terms demanding the payment of this money, threatening legal action. When Mr. Burnham wrote asking for some information as to Smith's antecedents, the latter replied: "My mother was a bus horse, my father was a cab driver, and my sister a rough-rider over the Arctic regions. My brothers were all gallant sailors on steam roller." A form of humour to arouse suspicion in the most confiding bosom. On December 8th, Miss Burnham went alone to a solicitor and made a will leaving everything to Smith. She had insured her life and he would benefit by £500. The signing of the will was the signing of her death warrant. Two days later they went to Blackpool, and looked for rooms. They rejected the first house because it contained no bath. They found another. There followed the cautionary visits to a doctor with complaints of headaches, etc., and the finding of the poor woman's body in the bath. Two days before she had written to her parents: "My husband does all he can for me; I have the best husband in the world." The landlady and her daughter told a tragic tale of the discovery. The verdict at the inquest was: "Accidental death from a fit in the bath." The funeral was of the cheapest order; the relatives were not invited; the will was proved at £600 gross. Smith rejoined Miss Pegler just before Christmas, explaining that he had been to Spain.

The man was rapidly becoming an artist, who feared not coroners, solicitors nor doctors.

Miss Lofty is the last person known to have been murdered by Smith. She died in a bath at Bismarck Road, Highgate. She was the daughter of a clergyman, and had been living at Bath. That she and Miss Mundy and Miss Burnham were educated women makes their association with this horrible person all the more extraordinary.

Before meeting her he had married Alice Reavil and absconded from her. He met Miss Lofty in the autumn of 1914 and married her on December 17th of that year. The next day she was dead in her bath in rooms at Highgate. In the morning she had been to an Islington solicitor and executed a will leaving all her property to her husband "John Lloyd". The landlady heard the sound of splashing in the bathroom. Soon after she heard the organ being played in Smith's sitting-room, and then the front door slam. In a little time he was back with some tomatoes for Mrs. Lloyd's supper. "Is she down yet?" At Herne Bay it was fish, at Blackpool eggs. The whole thing almost beggars belief.

The verdict at the inquest again left Smith unscathed. He immediately approached a solicitor at Shepherd's Bush to obtain probate of the will. It was during a visit to this gentleman that he was apprehended and charged, though not at first with murder, but with causing a false entry to be made in the marriage register at Bath. The net was quickly tightening about him in consequence of the activities of Detective-Inspector Neil and the police at Aylesbury (near where the Burnhams lived) and elsewhere, and with the G.P.O. On March 23rd, 1915, he was charged with the wilful murder of Bessie Mundy, Alice Burnham, and Margaret Lofty.

The end of the sordid tale the world knows of. Sir Edward Marshall Hall defended Smith brilliantly. He was convicted and sentenced on July 1st, and hanged at Maidstone on August 13th, 1915.

He took the jury's verdict very badly and gasped: "I can only say I am not guilty."

The grounds of appeal were chiefly concerned with inadmissible evidence and misdirection to the jury, as is so often the case in such proceedings. All were unavailing.

The hanging of Smith removed from the stage one of the most remarkable villains England has ever known.

CHAPTER TWENTY-THREE

Lord Darling and Capital Punishment

THE attitude of a great criminal judge like Lord Darling towards capital punishment for murder—we may leave out of the question high treason, for the moment, at any rate—is one exercised curious legal and lay minds for a long time past. At that has the Old Bailey and on assize he must have sentenced many a man to death by hanging, and, in some few cases—notably that of Kitty Byron—women also. Many of us have watched him during this ordeal. His face has been as a mask, betraying no signs of the working of the heart or brain. When the late Mr. Justice Bucknill sentenced the poisoner, Seddon, to death he broke down and wept. That, of course, does not necessarily show that this sensitive and popular "Tommy" Bucknill was opposed to capital punishment. His breakdown was due largely to the strain of the long trial; to the very human and nervous composition of his "make-up," and to the fact that he had discovered during the trial that he and Seddon were brother Masons.

It is difficult to find any definite pronouncement by Lord Darling on this subject, either as a judge, or as a peer, sitting in the House of Lords, where in 1924 he introduced a Bill to give a criminal the right to a verdict of "not guilty" under certain circumstances. That Bill—it was rejected without a division—did not really deal with capital punishment at all, although it sought to do away with the farcical proceeding of sentencing a prisoner to death when Bench and Bar and Public Gallery knew to a man that the sentence would never be carried out.

In 1889, in his charge to the Grand Jury at Chester Assizes Mr. Justice Darling said that in prosecutions for murder, resembling the Wark case—that is, when death occurs, without a design to compass it, but while committing a felony—he would direct Grand Juries to throw out any bill for murder. He invited them to be no longer parties to a piece of mummery; a verdict in such cases never being followed by execution of the sentence.

One is quite aware, of course, that neither this statement, nor the fact that he introduced into the House of Lords the Bill mentioned above, show in the least whether or not he is well-disposed to the system and practice of capital punishment. In the Court of Criminal Appeal he has coldly and stolidly upheld the death sentences of the Court below, where he and his colleagues have deemed the judge has not permitted any evidence to be taken that should not have been taken, and has not misdirected the Jury. Needless to say, the Courts below being what they are, appeals to the Court of Criminal Appeal are usually dismissed.

Only once, so far as the writer knows, did Lord Darling ever refer, in what might be called a colloquial way, to the death sentence in the Court of Criminal Appeal. Counsel was pleading the otherwise good character of an appellant in a murder case.

"Unfortunately," said his lordship, "I have had to sentence to death too many persons who bore the highest character to enable me to give that argument more than its due weight."

Lord Buckmaster, whose views on capital punishment are well-known, once said: "If we believe life to be the most mysterious and sacred thing there is; we are, through capital punishment, desecrating the very thing we hold high, and in executing the criminal are committing the *same crime* as that for which he has been condemned."

This is distinctly ingenious. Lord Darling describes it as an attractive presentment of a fallacy, and explains that the sentencing of a convicted murderer to death is an *act* but not a *crime*. That to take his own watch out of his own pocket and to pawn it is a legal act and no crime, but to take Lord Buckmaster's and to pawn it would be most reprehensible. The Buckmaster argument means that a man commits the crime of murder if in defending his own life he takes that of another—his attacker presumably.

Ordinary people, suggests Lord Darling, have long been of opinion that of life, "the most mysterious and sacred of things," each man has one, and that if he takes another he forfeits his own. And who shall decide that they are wrong?

This leads nowhere if one is deliberately seeking to discover whether or not Lord Darling, who has sentenced so many persons to death, is really in favour of capital punishment or of its abolition.

Mr. E. Roy Calvert's, the well-known abolitionist, views of capital punishment are that it stands condemned because the trivial offences recently punished by death, are now punished by such light sentences as even justices of the peace may pronounce. Everyone who has read Hudson's "Shepherd's Life" knows what horrible sentences, often worse than death, were passed on those found guilty of the lightest misfeasances. It is an interesting fact that just over a hundred years ago, when the paper in question first appeared, it immediately called attention to Mr. Calvert's theme, and in its fifth issue mentioned four cases where sentence of death had been passed for small offences: The secreting of a letter by a G.P.O. official; the stealing of thirty-three sheep worth fifty pounds; robbery from a Chelsea Pensioner, and an assault in Holborn and the stealing from the victim of five shillings, a hat and a pair of spectacles.

It was shortly after this date that the arguments of Sir Samuel Romilly and other reformers of our Criminal Law resulted in the abandonment of the death penalty except as punishment for high treason and murder. Lord Darling argues that if for the too common crime of murder this doom, of death, is still inflicted, it seems fair to presume that the instructed public has good reason for making this exception. As to ancient severity he would remind one that certainty of punishment for crime is more important than severity, and this does of itself account for, and to some extent justify, what now appears to have been inordinate penalties. This appears clearer when attached to the example that to steal a cup of water in the desert may cause greater misery and mischief than to purloin a gallon of aqua fortes, or other fashionable beverage in New York. In the latter case the thief might even be commended for the promotion of temperance. In other days a horse was often a necessity to life, and stealing it meant death, the gallows.

The abolitionists, needless to say, never fail to make use of the arguments that capital punishment is not a deterrent. The usual statistics are useful to them but they are inconclusive. Mr. Calvert himself says in his book that "the following official returns rather indicate that in only a small percentage of those murders known to the police is the death penalty actually inflicted," and Lord Darling seizes on this in saying that it is obvious that this well-known fact cannot be without its effect upon those who meditate murder. Upon this, he adds, might be founded a forcible

argument, not for the abolition of this law, but for its more stringent enforcement.

One thing is all-apparent here. Whatever Lord Darling may think privately of capital punishment he is able, with his legal training and his rapier-like thrusts, to water down considerably the cure for the abolitionists. He agrees with them that sweeping comparisons concerning the murder rates in different countries are unreliable, and generalisations based upon different cultured and social conditions are largely invalid. That punishment does to some extent deter crime he postulates as universally accepted, but to what extent, he argues, can never be exclusively proved.

Lord Darling admits that it is a truly lamentable thing to take another's life, and that he would rejoice to "see a reform in this practice." Here, one imagines, he is speaking of the practice of one man murdering another, for he goes on that ordinary people may still be content to say with M. Alphonse Karr :

"Que Messieurs les Assassins commencent."

Mr. Calvert, in desperation, as though he had known when he wrote that Lord Darling would handle his book, quotes from Oscar Wilde's "Ballad of Reading Gaol." Lord Darling concedes a point by quoting from Wordsworth, who wrote fourteen consecutive sonnets on this subject and concludes with the lines :

> "But leave it there to drop for lack of use ;
> Oh, speed the blessed hour, Almighty God."

Mr. Calvert thinks he knows that capital punishment is worthless, wicked and indefensible, but a large number of people are satisfied that they know the precise contrary. How are they to be brought to agree ? asks Lord Darling. The answer of the abolitionists is ingenious. If their literature is widely read we may soon find our jury boxes filled with enthusiastic disciples of Escobar, Vasquez, Reginaldus and Molina. But what happens when a sworn jury protests and gives a verdict against the facts ? Mr. Calvert sees further and more legally, the protestant juror declining to serve in murder cases. Though one would not recommend him to do so, that seems the more proper course to take than to give a verdict of manslaughter when the facts have proved murder. This would be a direct violation of their oath, as Lord Darling takes trouble to

explain. What, he asks moreover, would Lord Buckmaster, an ex-Lord Chancellor, say were the judges to trifle with their judicial oath, as is so lightly contemplated by abolitionists that jurors need not hesitate to do?

The suggestion amounts to a plain invitation to Judge Lynch to sit as a Court of Criminal Appeal, in Lord Darling's opinion.

Yet he has stated, one can perceive, that this monstrous perversion of trial by jury might have some compensating advantages Many murderers are now acquitted by timid juries. Lord Darling means those juries who in certain murder cases are too honest to say manslaughter, and too timid to say murder; were it to be manslaughter in some of those cases an undoubtedly guilty person might spend at least twenty years in prison, instead of getting off scot-free. Moreover, added Lord Darling, they would be spared those absurd attempts of professional witnesses to prove that any man should not be held criminally responsible for his actions, provided he can get some Freudian to say so. Many monsters, indeed, would go to gaol, who now contrive to be sent to asylums.

It is feared that the attempt to discover here Lord Darling's views on capital punishment has not been so successful as unpremeditated result in learning what he sees in the methods of the abolitionists.

As to the juryman he is not always timid, and in many cases conducted by Mr. Justice Darling has been amazingly prompt in finding the prisoner guilty of murder. The difficulty about him is that his views are naturally an unknown quantity and no one can be quite sure what he will be up to.

CHAPTER TWENTY-FOUR

Return to the Bench: The Mr. "A" Case

ALREADY one is apt to forget that Lord Darling, though he retired from the Bench on November 13th, 1923, and was given a peerage early in 1924, returned to Court IV in the King's Bench Division in July of the latter year and in the seventy-fifth year of his age, in order to help to clear off arrears. This public-spirited action kept him busily employed until December 19th, 1924, on which day he announced that he was returning to his retirement, and was definitely and finally leaving the Bench. On Lord Darling's reappearance he received a warm welcome from Mr. Justice Shearman, with whom he was sitting. Wearing the robes of a King's Bench judge—it was not a red robe day—he was to all about him the Mr. Justice Darling of old times. If his wig had been freshly powdered, as it always used to be, said one who was present, the picture would have been complete.

Addressing Mr. Greaves-Lord, the only K.C. in court, Lord Darling inquired in the old charming manner: "Mr. Greaves-Lord, do you move?" But Mr. Greaves-Lord had no *ex-parte* motion to make, and it fell to the lot of Mr. J. D. Caswell, a junior, to say the appropriate words of welcome. When counsel, who wanted a case postponed, said it was a rent restriction case, his lordship ejaculated: "Rent restriction! I will be glad if you will postpone it till I am gone again." The ice was broken, and Court IV settled down to conduct business in the old happy and efficient manner.

Lord Darling found himself in somewhat of a quandary when referring to Mr. Justice Shearman. "My brother Shearman," he first called him, correcting himself with: "I am not sure that he is my brother now;" and proceeding to describe him as "Mr. Justice Shearman." The latter, however, soon put this matter right, by referring to "brother Darling" at the first opportunity, and adding: "I still call him brother." There is precedent for most things to be found in the Law, but it was lacking here. Probably Lord Darling was right in referring to his colleague as Mr. Justice Shearman,

for he himself was a stranger from another place. He, of course, never went on Assize again, and his own verses, published near the time of his actual retirement, were not rendered anachronistic by this his second invasion of the Law Courts :

November, 1923

Long worn, now cast aside : red robe, lie there—
Not, when the organ throbs the nave along,
By chests of kingly dust,
And chantries old,
Shall I, with measured step, and quickening heart,
Pass to the Judge's place ; and, bowed, implore
Myself be not condemned
Nor less than right decree.
Not with resounding trumpets, may I come
To sit in judgement on the regal bench ;
Dividing false from true,
With sword and even scale.
Mantle and stole laid by, and cap of doom ;
Bereft, alone, I wear no ermine more ;
Nor judge—yet one Assize
I, fearful, must attend.

Lord Darling had ever a deeply rooted sense of the tremendous and grave importance of the "regal bench," and you find it shining out in all his writings. None realized more clearly than he that while he is on the King's Bench a High-Court Judge is actually representing the King. The never-failing appreciation of this fact is no doubt one of the reasons for his complete success as a Judge.

Before returning to the Law Courts time had been afforded Lord Darling to make his presence felt in the House of Lords, and he had not wasted it. His maiden speech in that Chamber was characteristic, and his active participation in debate, and his own share in introducing new legislative enactments, had been notable. He had been immediately recognized as a valuable recruit to the Upper House. That the Peers refused to accept his Criminal Responsibility (Trials) Bill which he introduced on May 15th, 1924, does not weaken the truth of this assertion.

The Bill in question was particularly interesting as being introduced by one who possessed greater knowledge, probably, than any other noble lord in the House of criminals and criminal

trials. It proposed to give a criminal the right to a verdict of "not guilty" if it can be shown that "at the time the act was done he was suffering from such a state of mental disease as therefrom to be wholly incapable of resisting the impulse to do the act." The majority of the Law Lords were against the proposal and Lord Darling asked leave to withdraw his Bill. He had based it on the recommendations of Lord Justice Atkins's Committee, appointed by Lord Birkenhead, when the latter was Lord Chancellor. Lord Darling was able to quote a number of passages from the summing-up of certain judges to the juries which assumed that the principle of the proposed change was already part of the law of England. But he received no support from his judicial colleagues in the House. If a man is insane he cannot know the nature of the crime he is committing, and must not be hanged (on a murder charge) for its committal. Before 1883 the verdict in such a case was "not guilty." Since then it is "Guilty of doing the act charged, but insane at the time." The anomalies and complications following such a verdict in most cases are easily recognized. For twenty-six years Lord Darling had advocated a change in the Law. Every decade since 1843, when McNaghten, suffering from delusions and desiring to be avenged on the Tory Party, thought to kill Sir Robert Peel, but murdered his secretary Mr. Drummond by mistake, down to the time of the Ronald True case, and later, has been punctuated by these difficult and embarrassing cases. Lord Darling, after a bold effort, was unable to solve the problem.

Meanwhile, as we have said, the following July saw him back in Court IV in the Strand, a young man of some seventy-five years of age. It had actually been rumoured immediately after his retirement and before his elevation to the peerage that he might enter the field of politics again, and some had gone so far as to state that he had been invited to stand as a candidate in his old constituency in the coming general election. These rumours, needless to say, were quickly disposed of by Sir Charles himself.

By a strange trick of fate Lord Darling in the last few weeks of his self-imposed employment of clearing off arrears was called upon to preside over the hearing of one of the most extraordinary cases in the annals of the English judiciary system—the notorious Mr. "A" case. For twenty-six years he had been trying *causes célèbres*, the outstanding figure in many a "court interior" picture that has

become famous ; and here, waiting for him at the end of all, was the most remarkable of the whole lot—a case the trial of which, over a period of eight days, was to cause amazement and disgust, wonder and mystification throughout the English-speaking world.

It was a narrative that fascinated while it repelled and shocked. The human interest was enormous, and no life story of Lord Darling would be complete without some reference, however brief, to the case itself and his conduct of the trial. It was pointed out at the time that great writers have sometimes sought to depict the "under-world," and that not the most daring amongst them would have sought to paint scenes more revolting or more despicable in the cold-blooded and sordid vices they displayed then several which the evidence in this case produced.

The actual facts of the case may be briefly recalled. The huge sum of £150,000 had been paid into the Midland Bank as the fruits of what was decided in the trial to have been a conspiracy. The victim was described as Mr. "A," and it was stated in court at the opening of the case that at the urgent request of high authorities in the State his description and titles were suppressed, lest grave harm should ensue in the country of his origin as the result of such a disclosure as was bound to be made. Needless to say, the world began guessing without delay and the Americans guessed right and gave the result in their newspapers, while Fleet Street knew all there was to know but, in print at any rate, respected the desire of the powers that were. Even at that, Mr. "A," before the trial was over, began to be referred to in the papers as an "Oriental Potentate." This description would be correct to-day, but was misleading then, and must have irked others to whom the title at that time correctly applied. He was, in 1924, of near kin to such a potentate, but he was not a ruling prince himself.

Lord Darling, in his summing-up, referred afresh to his decision to allow the names of Mr. "A" and of his aide-de-camp (an Englishman, who although he had worn uniform, had never belonged to any branch of the Regular Army) to be withheld from publication. He said he "was requested to do so for reasons of State." It was widely considered at the time that to make and to grant the request were errors of judgement. Concealment in such a case was, of course, impossible, especially as it became evident, early in the hearing, that criminal proceedings against certain persons appearing in

the case were inevitable. It is difficult to see how Lord Darling, the request having been made, could refuse to grant it, without entailing a desperate encounter with the India Office, who must, at the time, have been credited with reason in asking. Be that as it may, it will be simpler here, for the purpose of this account, to continue reference to the victim of this extraordinary conspiracy as Mr. "A," though the world may know him to-day as the Maharajah of Kashmir.

Mr. "A" was a popular man, and was moving about from place to place in Europe at the time. He was a man who could draw and sign a cheque for £150,000 without blenching—more was the pity. He was in Paris when this strange business was enacted.

The action—a civil action, of course—was brought by Mr. Charles Ernest Robinson, a bookmaker, claiming the sum of £125,000 from the Midland Bank, as money had and received by the Bank to the use of the plaintiff. The criminal proceedings which followed on the hearing do not come within the scope of this volume, and need not be touched upon in its pages.

The £125,000 was the balance of £150,000, a cheque drawn to the order of Mr. Charles Ernest Robinson, the plaintiff, and apparently, but not actually endorsed by him. Robinson claimed this amount, or alternatively damages, for alleged negligence. The defendants denied that they received the money claimed, or that they were guilty of negligence. They relied upon Section 82 of the Bills of Exchange Act, 1882.

Here, set out as shortly as may be, is the plaintiff's case, and very sensational reading it makes, even at a distant date. On January 6th, 1920, an account was opened in his name by someone other than himself, at the defendants' branch at Kingsway. A cheque for £150,000 was paid into the account. On the following day a forged cheque for £130,000 was cashed by one Hobbs, who was paid the amount in £1,000 notes over the counter, the balance being afterwards withdrawn by means of other forged cheques.

For the defendants it was claimed that the cheque for £150,000 was obtained by blackmailing conspiracy from an Eastern potentate, Mr. "A," who was discovered by a man in compromising circumstances with the plaintiff's wife in a Paris hotel on the morning of Boxing Day, 1919. The defendants also alleged that the whole of the proceeds of the cheque were shared between the conspirators,

who were said to be Hobbs, the man mentioned above, the plaintiff's wife and her woman companion, the plaintiff himself, and the aide-de-camp attached to the suite of Mr. "A."

It was perhaps inevitable that a case such as this, with a veritable mass of sordid and disgusting details peppering the evidence, should prove the social success of the year, and draw many, many more daily than the couple of hundred or so that Court IV holds into its precincts. It is doubtful if ever again a case of its sort will be reported in the Press with so much detail.

A second cheque for £150,000 which had been obtained from Mr. "A," whilst adding to its sensational nature, had no important bearing on this case.

Mr. Robinson, it was stated, had received from a person unknown a sum of £25,000, as the price of his wife's dishonour. He was claiming then, for the balance of £125,000 out of the £150,000 which he later discovered was the amount paid and with which an account had been opened in his name at the Midland Bank. That being so, and admitting that there was conspiracy stalking abroad, it is of paramount interest to see how Mr. and Mrs. Robinson fared in this sorry business. Were they parties to it, and what right had Robinson to claim this huge sum obtained without his request or knowledge as damages for his wife's seduction? It was decided that Mr. Robinson and his wife were not parties to the conspiracy, but that Robinson had no rightful claim to the money.

One fact may be said to have emerged clearly from the trial, and it was upon that fact that the decision which was come to by Lord Darling in giving his judgement upon the findings of the jury was based. There was without the slightest doubt in the world a scheme of conspiracy described in the questions put to the jury as a scheme "to catch Mr. 'A' with Mrs. Robinson with a view to getting money from Mr. 'A'." As a result of this conspiracy the latter was induced to part with two cheques for large amounts from fear or alarm. The jury's finding on these points was definite and equivocal and prepared the way for the main finding that Robinson's claim could not succeed. Lord Darling dealt with the matter courageously and, it was agreed generally, in strict conformity with the law of the land. The jury found that neither Mr. Robinson nor his wife was a party to this conspriacy, whereupon Lord Halsbury, counsel for the plaintiff, contended that the findings of the jury entitled him to

this monstrous jest. "Then," continued Lord Darling, "two dashes to show that there are no shillings and no pence." Everyone enjoyed this fully. There had not been very much laughter in this case.

Sir John Simon submitted Mrs. Robinson to a dreadful ordeal over this adventure of hers which had begun when she met Mr. "A" at an Albert Hall Victory Ball, and ended in the witness-box in Court IV of the King's Bench Division. Then with a reassuring smile he softens the torment with: "Remember, I am only an advocate." That was very nicely done.

Lord Darling's summing-up was not very long. He severely and bitterly criticised the A.D.C. whose name he had also been requested not to mention. Nor would anything have induced him to conceal the name of Mr. "A" but that he was requested to do so for reasons of State. "I have no doubt that a number of people would have been very pleased to hear it who are not concerned in the matter at all."

The first question Lord Darling left to the jury was: Was there a scheme or conspiracy to catch Mr. "A" with Mrs. Robinson with a view to getting money from Mr. "A"?

Lord Halsbury and Sir John Simon agreed there was a conspiracy. Who were in it?

Here, in a manner more characteristic, Lord Darling broke off to say he welcomed the opportunity of saying what pleasure it had given him to see the way in which Lord Halsbury had conducted that unpleasant and unsavoury case. He would have said it to any counsel, but he owed so much to Lord Halsbury's father, his silk gown, the ermine which he had latterly laid aside, that it gave him particular pleasure to say it in Lord Halsbury's presence.

What a domestic touch, and how it must have astonished some of the queerly assorted people in the crowded court!

But the points for the jury continued as if there had been no interruption, and no Lord Halsbury who years ago had lifted the young Darling from Deptford to the Bench. One was reminded by the grateful words of a cartoon which appeared in some comic paper at a distant date. It showed the old Lord Chancellor lifting the trim little figure of the member for Deptford on to a shelf (the Bench) with the injunction: "There you are, my little Darling. Mind you don't fall."

He did not, and here he was on November 29th, 1924, still at it, vividly fresh, but to leave it all for ever and a day in less than three weeks.

When briefly referring to the famous bedroom scene in Paris on December 26th with the conspirator rushing in to charge this deluded potentate, the judge remarked scathingly: "The facts are so notorious all over London by this time that I need not recapitulate them. I do not know the religion of this man, but this was Mrs. Robinson's way of keeping the Christian Festival of Christmas."

The business of the jury, his lordship concluded, was to weigh the evidence of anyone who came before them, and if a witness said his name was "Ananias" they ought not to act upon his previous conviction; they should weigh his evidence for themselves.

CHAPTER TWENTY-FIVE

Privy Councillorship. Twenty-five years as Judge and Retirement

ON November 26th, 1917, Sir Charles Darling received an information from No. 10, Downing Street that the King had been graciously pleased to approve of the recommendation that he should be sworn of His Majesty's Most Honourable Privy Council. On the 17th of the following month followed the official letter from Sir Almeric Fitzroy requesting that he attend at a Council to be held by the King at Buckingham Palace on December 21st that he might be sworn of the Privy Council. Sworn with him were Lord Rothermere, then President of the Air Board, and Sir Auckland Geddes, Director-General of National Service.

This rare honour (it is difficult to recall another case of a serving puisne judge being sworn of the King's Privy Council) was the occasion for a burst of congratulations, both publicly and privately expressed. Among the first to write was the aged Lord Halsbury, who had watched him grow into "an example of what an English Judge ought to be." Recalling the criticism of twenty years ago the honour conferred upon his protégé must have afforded this bluff old lawyer and typical Englishman exceptional pleasure.

In conveying the congratulations of the Bar, the Attorney-General, Sir F. E. Smith, now Lord Birkenhead, said that the distinction, always a high one, was almost unprecedented in the case of a judge who still occupied a position on the Bench.

With regard to the question of the Bench and the Privy Council, it were better for the sake of a proper understanding, to expand the Attorney-General's words somewhat. At that time there were upon the Privy Council about thirty judges, active or retired, including Lord Chancellors, Law Lords and members of the Court of Appeal; but all had become Privy Councillors after they had reached those elevated positions. The only living puisne judge at the time we are speaking of, whose name figured in the list of

Privy Councillors, was Sir A. M. Channell, but, unlike Mr. Justice Darling, he did not receive the distinction until he retired from the Bench.

Lord Darling made a graceful reply to the Attorney-General. However high the honour it would be valueless unless it were conferred with the approval of those who were in the best position to judge as to whether it had been merited or not. He had tried at all events to adhere to the standard of those who preceded him, and then came that inevitable light touch :

"I am the first to recognize that everyone, including myself, naturally has the defects of his qualities. I have also discovered that some of us have the defects of those qualities which are imputed to us, whether they are our own or not."

It was soon after Mr. Justice Darling had been sworn of the Privy Council that he took upon his shoulders, not for the first time, the duties of acting Lord Chief Justice. The Earl of Reading, who then held that office, had accepted in January, 1918, the position of Ambassador-Extraordinary and High Commissioner to Washington, and had laid stress on the fact that he was "plenipotentiary on a special mission," by continuing in office as Lord Chief Justice. His work was carried on by Mr. Justice Darling, senior puisne judge, the only statutory duty of Lord Reading's he was unable to undertake being that appertaining to membership of the Court of Appeal.

As the close of a long period of honourable service in his country's cause drew nearer, so there increased in number the occasions that called forth congratulations from all and sundry on the reaching and passing of this and that milestone in his career. Those, for instance, who, for his very youthfulness had come to regard this career as only just begun ; equally with those who, after years of watching him in No. IV Court, either from its floor or its public gallery, had come to look upon him as sempiternal, were surprised, no doubt, when the newspapers the country over and on the Continent of Europe as well, and in America. suddenly blossomed with articles headed, "Twenty-five Years a Judge."

The date of this consummation was October 26th, 1922. The larger the circulation of the newspapers which dealt with these twenty-five years in a remarkable and valuable life, the more the space that was given to Lord Darling's reputation for wit. "In the popular mind his name is chiefly associated with the bracketted

line, 'Laughter in the Court'." This does not seem at first entirely fair or accurate, but we remember, while reading, the relations that are bound to exist to-day between the producers of a really popular newspaper and its readers, and we look elsewhere for a deeper quest for the explanation of Lord Darling's popularity.

You can take no exception to the writer who said of Lord Darling when he had completed his twenty-five years as a judge: "His reputation for wit is not of recent growth. As far back as 1877 he published a book of witty epigrams called 'Scintillæ Juris.' . . . They are characterized by a deep comprehension of *human nature* as well as of humour."

Here you have the real secret of Lord Darling's "good press," both as a judge, and as a legislating peer to-day. It has been the human touch controlling the wit and humour, which two latter are undoubtedly his natural, and of themselves uncontrollable possession. With regard to his writings we have had something to say already, and shall seek a little further indulgence later. "Mr. Justice Darling," said one who knew him well at this particular juncture, "never allows the thread of a case to be broken by jest. Those who have seen him over many years conducting cases know full well that on the contrary he makes use of a brilliant sense of humour to concentrate attention on vital points and to put all irrelevance to confusion."

"There are at least two Darlings," murmurs another commentator on this occasion; and it was a little later that a well-known French lady, Madame Bohn, Chairman of the Public Lectures Committee of the Institut Français, referring to a possible Third Darling, who had just made a speech in French during a debate at the Institut, said: "Somehow I was reminded of Voltaire. But, of course, Voltaire would have lacked Mr. Justice Darling's charm in attempting to concentrate both views in a debate." To which M. de Goroslarzie, the French lawyer added: "English wit evidently need not suffer through its expression in the French language."

Perhaps, however, it were all-sufficient, in dealing with this period, to quote one who summarized Darling as "a natural cynic and humourist—some people are—who has continuously at the Bar, in the House of Commons, and on the Bench given free rein to these qualities. There must be no misunderstanding, however, as to Mr. Justice Darling's judicial record. He is a sound and able lawyer and

a fair-minded man, whose merits, have been over-shadowed by his inveterate habit of joke-making. Lawyers who know most about the working of the legal machine hold him in high esteem as a judge."

After a trial lasting a quarter of a century all critics were agreed that the instinct of Lord Halsbury was more accurate than that of some of the legal critics of his day.

A few years before Lord Darling completed his twenty-five years on the Bench, rumours found their way into print that he was about to retire. In May, 1919, and in September of the same year, the story went round in the Temple. One highly reputable London newspaper arranged for Mr. Justice Darling to spend his retirement in literary pursuits, and added that there were reasons to believe the King would bestow a peerage upon him. An anticipation that was at any rate intelligent.

On November 12th, 1923, a little more than twenty-six years after his elevation to the Bench, the retirement of Mr. Justice Darling was officially announced. On the following day the entire press of the country united in a chorus of regret at the loss the judiciary had sustained. His age concerned the people not at all. Besides he was only 74. It was the brilliant Darling in the full possession of all his faculties they were losing. Regret shared newsprint space with enconiums on his work. There has been nothing seen or read like it at all on the retirement of any English judge. They slip into obscurity and are little heard of again. An anecdote or two, perhaps, or a famous case recalled. A rhyming verse maybe, if conditions permit it. One is just able to recall the retirement of that distinguished judge, the late Sir John Day, for example, by remembering some lines that appeared in the old *Morning Leader*:

> "Your judgements, my Lord, we could often admire,
> Tho' they woke in the wicked dislike and dismay;
> But your very worst enemies, now you retire,
> Will be ready to echo: 'Good Day'."

Here, on the other hand were a thousand anecdotes ready, dozens of verses and couplets, and scores of famous cases. There is a photograph of the judge, spare in frame and fine in features, that was taken on the day following the announcement. He is seen in

the middle of the Strand, crossing the road from the Law Courts. Street's Gothic arcading forms the background, and Sir Charles's head is turned over his shoulder wistfully regarding the building he is leaving. With one taken just before in his room at the Law Courts you have the best pictures of Darling. The fine mouth seems to tremble with suppressed emotion, twenty-six years is a long time, and the piercing eyes, very kindly, are looking through you into a distance that you know nothing of.

On the following day all the judges of the Law Courts, headed by the Lord Chief Justice, assembled in the latter's Court to bid a formal farewell to Mr. Justice Darling on his retirement. The building was crowded. Sir Charles was not present, but his daughter, Miss Diana Darling, was in the judge's gallery. There was an imposing array of leading counsel, and the Lord Chief Justice referred briefly and simply to the loss they had all sustained :

"For more than twenty-six years it has been his happy fortune to demonstrate here, day by day, to all concerned that in order to be wise it is not necessary to be dull, and that in order to interpret the law it is not necessary to turn your back upon literature. *Ridentem dicere verum, quid vetat ?**

"This is not the moment to praise or to appraise his judicial labour. But it is not forgotten also that he served, for example, on the Royal Commission on alleged delays in this division ; that he presided—always after the rising of the Court—over the Committee appointed after the war to advise upon reforms in the procedure of Courts-martial, that he played no small part in solving the early difficulties of the Court of Criminal Appeal ; and that during the repeated absences of Lord Reading on Government business he acted as Lord Chief Justice.

"A wise, experienced and humane judge, with a consummate knowledge of human nature and the world, he is not easily replaced. Those who practised before him, as some of us did a long time, are never likely to forget his invariable courtesy, patience and kindness."

The Attorney-General's eulogy was, if possible, more fervent than that of the Lord Chief Justice. Sir Charles Darling had added

* Why may a man not speak the truth in a jocular vein ?—HORACE

to the high qualities he brought to his judicial duties a breadth of culture, a wide knowledge of the classics of our own and many other countries, a polished literary style and a brilliancy of wit which were rarely found in any walk of life.

It was on these notable pronouncements that the Press of the country, prodigal of space, rang the changes. It is quite impossible to exaggerate the extraordinary interest which the announcement of this remarkable man's retirement excited. But the Press notices, from which it is obviously impossible to quote here, may well be summarised in these telling words which conclude a leading article published in *The Times*:

> "He has been more than a judge. He has been a national character, and the public will be glad to think that in resigning his seat on the Bench he is prevented by nature from resigning his character also."

CHAPTER TWENTY-SIX

A Peerage and a Re-appearance

THE excited and sympathetic interest following Mr. Justice Darling's retirement from the Bench did not die down for a long time. The weekly papers followed the dailies, and the monthly papers followed the weeklies in the enjoyable task of surveying him from every point of view; of recalling every old story and anecdote concerning him, and of inventing new ones where it was necessary to fill a gap. It was inevitable that the words of others should occasionally be ascribed to him, but his reputation as a wit stood to gain little from such accidents, unless, indeed, it was where some jests of the late Lord Justice Bowen was labelled "Darling." This happened on one or two occasions.

Lord Darling's retirement from the Bench was one of the most stealthy moves ever made in the Law Courts. It was really admirable. No one knew of his intention to resign; his retirement was suddenly and officially announced. The following morning he had heard his last case, and before the day was over had said good-bye and was gone, just slipped back into private life after twenty-six years of glare and publicity. He was succeeded by Mr. G. J. Talbot, K.C., whose uncle, Dr. Edward Talbot, had recently resigned the Bishopric of Winchester. Mr. Justice Darling heard his last case, and took leave of the Bar, in his old Court, King's Bench Division IV. His reply to the Bar's farewell was brief and characteristic: "I do not feel that I am dead. I can say that I have done my best. I have tried to remember some of the qualifications which you may find in Portia's speech to the Doge of Venice. I cannot pretend that one does not leave without casting one long, lingering look behind."

Sir Charles Darling, as he was to be for a few weeks longer, was obviously moved on this occasion, as who would not be? But by a strange chance he was destined to return to his old world in the summer of the following year, when, after he had received a peerage, he helped to reduce in volume an inflated cause list. This

self-imposed task occupied him until practically the end of the year 1924, when his retirement became final and absolute. Mention has been made already of this ultraneous phase. The extraordinary part of it is that its last few days were marked by the fact that Lord Darling was destined to conduct the famous Mr "A" trial, the most sensational case, perhaps, in his whole career. This case has been recalled at length in another part of this memoir, and there is no need to refer to the other trials over which he presided during this brief period.

There was a good deal of speculation in November, 1923, as to how Sir Charles was intending to spend his leisure. It was nobody's business but his own, but that was beside the point. Would he write his reminiscences? Probably no. Emphatically no. A London paper invited him to contribute an article on "People I have met." He replied that if he wrote only that which would not be libellous, it would not be interesting. He also declined to write "The Days of My Youth," saying the matter must stand over until "the subject is finished." Here, indeed, is a slight excuse for the attempt essayed in these pages. The seekers after the truth were compelled to fall back on the assumption that his days would be spent in adding to the collections of polished verses he had already published, and in painting. Apart from his love of hunting and steeplechasing in his earlier days, he never cared much about sport. He is indeed reputed to have said, concerning his nine years in the House of Commons as member for Deptford, that the House was a very good public school, and "it had this advantage, that it does not compel you to play games. I always detested playing games at school."

It may be noted here, that surprise greeted the appointment of Talbot, K.C. to the Bench in the place of Lord Darling. Not, be it insisted upon, because he was considered unfit, but simply because his name had never entered anybody's head. Needless to say, that there was no indignation memorial sent round the Temple for signatures as there was when his illustrious predecessor was promoted.

There was an unwritten invitation in the suggestion of those who knew him best, that after twenty-six years of efficient service as a judge of the King's Bench Division, Sir Charles had well earned his "retirement" but that it would be seasoned by work of a less strenuous character in "another place." The Judicial Committee

of the Privy Council, the most august tribunal in the world, would be graced by his presence as a Privy Councillor who had held high judicial office, and there could be no doubt that he would render valuable service by his judicial experience and grasp of business. One is happy in being able to acknowledge here that this "August Tribunal" has gained greatly by Lord Darling's retirement from the Bench.

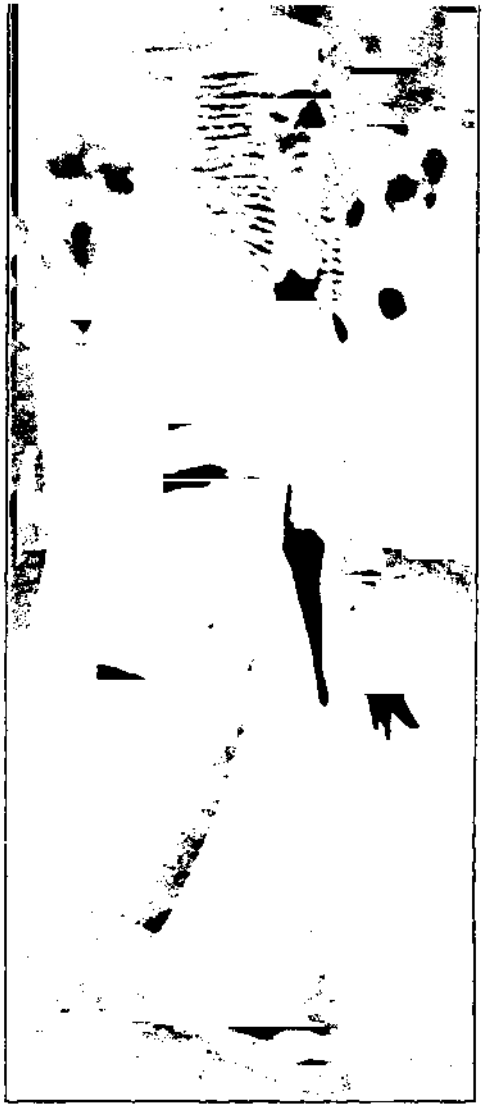
Sir Charles Darling did not have to wait long after his retirement for opportunities for referring to it. On December 20th we find him the guest of the London District of the Institute of Journalists at its annual dinner, when in proposing "The Profession of Journalism" he remarked that he had only been in a position during the last few days to dare to come to such a gathering. "For me and any power I have," he added, "Pentonville might be empty." The occasion, which he enlivened by sly criticism of the Press, had its importance in the fact that he definitely asserted that he did not ever mean to write his memoirs.

It was shortly after this that the New Year Honours List, published on January 1st, 1924, contained the name of Sir Charles Darling, created a Baron. To everybody's satisfaction he decide to preserve his patronymic in his title and also the place of his birth, becoming, therefore, Lord Darling of Langham, Co. Essex.

One recalls hearing men say at the time that Sir Charles Darling's barony was a matter of course. For all that, it is almost as difficult to name a puisne judge raised to the peerage after his retirement as to think of a serving puisne judge being sworn of the Privy Council.

It is needless to say that the honour was a popular one. Mr. Baldwin was not showering such gifts upon deserving public servants.

The elevation of Darling to the Peerage, as was apparent to the legal, if not to the lay mind, at the time, not only corrected the balance between Scot and Southron in the Supreme Tribunal, but added to it a new flavour to spice the ironical and literary styles of Lord Birkenhead and Lord Shaw, now Lord Graigmyle. Of the six Lords of Appeal, it was pointed out at the time, four were Scots—Lords Dunedin, Atkinson, Shaw and Blanesburgh—one English, Lord Sumner, and one Irish, Lord Carson. Of the ex-Lord Chancellors who sat on the House of Lords Tribunal, two were Scots, the late



Topical Press

MR. JUSTICE DARLING IS RAISED TO THE PEERAGE.

(See last page.)

Viscount Haldane and the late Viscount Finlay, and two English, Lord Birkenhead and Lord Buckmaster. The late Viscount Cave, the late Lord Phillimore, and Lord Parmoor, who then sat regularly, were English. With Lord Darling there would be seven English and seven Scots and Irish Supreme Judges. Lawyers regarded it as obvious that in leaving the King's Bench, Darling only did so with the knowledge that he would soon be serving in a judicial capacity of another nature. Indeed, he let drop a hint of it in his farewell speech in Court IV, by an allusion to the Judicial Committee of the Privy Council. Doubtless, it was said, Lord Darling would be called to serve on this Imperial Court of Appeal (this transpired very shortly) as well as in the House of Lords Appellate Tribunal, the Lord Chancellor having the prerogative of summoning, if ready and willing, Peers who have held high judicial office, to sit on those Courts. It was further gossiped in the Temple that Sir Charles Darling would have been willing to retire to the Lords some time before in this way had opportunity offered, but he had no wish to give up public work altogether.

Be all this as it may, Sir Charles has had a busy time enough since his elevation to the Peerage. On January 10th, 1924, he was introduced and took the oath in the Lords. His introducers were his old friend, the Earl of Desart and the Lord Chief Justice. An unusually large number of peers attended to watch the ceremony. He did not make his maiden speech until late in February, but before that event he was to be found seated at the horseshoe table in the Chamber of the Judicial Committee of the Privy Council in Downing Street and assisting in hearing appeals from the Overseas Dominions.

The introduction of the horseshoe table in this Chamber is, by the way, of recent origin, and the cause of the change is worth relating here. When Lord Haldane first assumed the Lord Chancellorship the Judicial Committee used to sit at an oblong table. The seat at the head was always vacant, as typifying the place which the King was once accustomed to occupy. The arrangement, if picturesque, was distinctly inconvenient as their Lorships were obliged to sit sideways if they wished to face the counsel addressing them. Lord Haldane therefore advised the substitution of the horseshoe table for the oblong.

It was not until February 26th, that Lord Darling delivered his maiden speech in the House of Lords. The debate was on the

second reading of the Criminal Justice Bill, a suitable subject for Lord Darling. He spoke at considerable length and with great restraint. There was, contrary to the expectation of those who did not know Lord Darling very well, no "laughter in Court," or very little of it. There was a story going around just then that a parliamentary sketch-writer when told of Darling's elevation to the Upper House had murmured: "Thank God, it may be worth while now going to the House of Lords even when Birkenhead isn't speaking." He possibly would not have thought it worth while on the occasion in question, although the speech was a suitable contribution to the debate and inspired no less a stickler than Mr. Punch into writing that "A maiden speech from Lord Darling pleased the Peers no less by the cogency of its arguments than by the modesty of its delivery, and surprised a few of them, perhaps, by the total absence of any attempt to set the red benches in a roar."

The opening of the speech in question was not a little characteristic of the speaker: "My Lords, I ask for the indulgence of the House in addressing it for the first time, and, seeing how late I have arrived here, it may well be for the last time." And then with a modesty not quite so wistful: "I would not venture to say a word upon the introduction of this Bill but that it does deal with matters which came before me, as a Judge of the King's Bench, during a very long period of time, and I think perhaps your Lordships might like to hear which I have to say upon one or two points. Possibly, what I say may be of some assistance."

Of course it would be of some assistance to their Lordships, or to those of their Lordships who were actively interested in the Criminal Justice Bill and, maintaining that almost plaintive note, Lord Darling proceeded to tell his fellow peers quite a lot of things which he had garnered during twenty-six years on the King's Bench.

It is unnecessary here to enumerate the points of this speech, but there was one touch in which the Darling of yester-year nearly revealed himself. He was referring to the practice of taking photographs in Court and said: "Sketching with a view to publication may require a little consideration, because I well remember a learned Counsel who became a Law Officer of the Crown, and I very much doubt whether he would have reached that position if he had not been an almost inimitable craftsman and had not published—in

the strict legal sense of the word 'publish'—the sketches which he often took in Court, and very often gave to the judge."

There fluttered an amused smile over the red benches at this intimate, if anonymous reference by Lord Darling to his old friend, the late Sir Frank Lockwood.

The Lord Chancellor showed high appreciation of the speech:

"My Lords, I think I am only expressing the feeling of a large number of your Lordships when I say that we welcome the contribution which one of our newest members, my noble and learned friend who has just spoken, has made to the debate. He has brought to bear a ripe and rich experience, and he has given us an example of the promise and potency of the contribution which he can make to discussions of the law such as from time to time come up in this Chamber. . . ."

Since that day Lord Darling has made many speeches in that Chamber and these call for brief notice in the pages that follow.

CHAPTER TWENTY-SEVEN

Lord Darling in the Lords

WHEN Lord Darling addressed the House of Lords for the first time it has been told how, in his modesty, he remarked that seeing how late he had arrived in that place the first time might well be the last time. He was seventy-five years of age and the time that has passed since then has not detracted from the youthful vigour that has always distinguished him. He has made scores of speeches in the august chamber with the red benches; he has fathered Bills and amended Bills and helped to kill Bills. From interpreting and administering the law during a quarter of a century he has slipped into the position of a legislator with an easy grace; from case-law making to statute-law making with comfortable transition.

Just as when a young man he entered the House of Commons he started very quietly, almost grimly, so in the Lords one looked in vain at first for certain characteristics that had made him world-famous on the Bench. But it was merely a question of being too wise to risk stumbling before feeling his feet. Soon there came bubbling to the surface again the irrespressible high spirits, and the light touches in debate. Once more the dipping into his deep store of knowledge of the classics for verse or line to illustrate his point. There came, too, plenty of sharp rapier work with fellow peers like Lord Banbury and noble lords opposite like Lord Arnold. His years on the Bench served him in excellent stead in all types of debate; and it is desirable to dwell here a little on his valuable work in the House of Lords.

Apart from his maiden speech, Lord Darling's first important contribution to debate in the Lords was in connection with the taxation of betting. Lord Newton had given notice to call attention to the Report of the Select Committee on Betting Duty and to move that the taxation of betting was both desirable and practicable. This was on March 12th, 1924, and the discussion of this motion evoked considerable heat and produced some noteworthy speeches.

Lord Darling would have none of it, and urged that though betting was not a crime it was a vice, and the law had recognized it as a vice when it had decided that money won as a wager should not be recoverable in the Law Courts. Lord Darling is yet another example of the many sportsmen who love horses but do not tolerate betting. He bitterly criticised the decision that to use the telegraph or telephone at the places kept for the purpose of accepting bets is not to resort to a place for the purpose of betting. Lord Newton had said the law deals with this matter hypocritically and Lord Darling could not refrain from helping himself and the House to La Rochefoucauld: *"L'hypocrisie est l'hommage que la vice rend a la vertu."* Was it not the Postmaster-General who was keeping a betting-office? "Although I admit the law is open to the charge of hypocrisy, I have no sympathy with those who say, as I suppose the Postmaster-General says, and as was said on another occasion: *Pecunia non olet.*" When, at another point of the speech, Lord Newton protested that he had not lost over betting, Lord Darling retorted: "The noble Lord says he has not lost, but he will if he persists. I hope he will reform."

The delivery of this speech was enjoyed by the House and the effort was to be the forerunner of many others on a host of widely differing matters.

A couple of months later the important occasion arose when Lord Darling asked their Lordships to give a second reading to his own Bill, the Criminal Responsibility (Trials) Bill. In a long but lucid speech he explained that this Bill would alter the law in one important respect regarding trials where the insanity of the person accused is alleged. In view of many cases, culminating in that of Ronald True, this Bill possessed considerable interest for the layman—the man in the street equally with the lawyer.* But Lord Darling obtained no support whatever, all the great lawyers in the House, Lords Sumner, Hewart, Cave, and Dunedin, being against the Bill, and withdrew his motion for its second reading. Whether this was a surprise to him or merely a disappointment, only Lord Darling can say.

That this Bill was not lightly introduced is shown by the fact that it was really the child of a Committee appointed by the then

*Lord Darling's speech will be found in full in Part Three, page 250.

late Lord Chancellor, the Earl of Birkenhead. That Committee, which was appointed to inquire into this question, had made a report some months before, but nothing further had been done in the matter. So Lord Darling stepped in. "I am perfectly well aware"—he said—"that there will be considerable opposition, and what is about to begin may develop into a pitched battle. But it has often happened that some poor *franc-tireur* has begun what has in the end become a most important victory." To obtain a proper understanding of this interesting subject Lord Darling's speech must be read in full. It deals with the question of the verdict of guilty or not guilty in those cases where the insanity at the time of committing a crime is alleged, and the arguments carried one from the famous McNaghten case, where Sir Robert Peel's Secretary was murdered in Whitehall, up to the present time, and the trial of Ronald True.

As explained by Lord Darling the law has long been that insanity as recognized by the law of England entitles the accused person, in cases of murder, to escape capital punishment. The law long was —in fact, until 1883—that in such a case, if the jury came to the conclusion that the accused was insane, the verdict was "not guilty" because the accused was insane at the time of committing the act which otherwise would have been a crime ; and therefore the accused was ordered to be detained during His Majesty's pleasure ; that is, he was sent to a lunatic asylum. By an Act of 1883, passed without good reason, this law was altered, causing such a verdict to be : "Guilty of doing the act charged but insane at the time." A perfectly illogical and indefensible position, declared Lord Darling. One might as well say guilty of playing cricket or football. The Bill if it became law would bring back the law to what it was before "this absurd Statute" was passed. Other and more contentious matter in this measure cannot be referred to here.

So much for Lord Darling's first attempt at law-making in the House of Lords. His subsequent activities do not suggest that he was in any way perturbed by his failure, and it is more than probable that the *franc-tireur*'s part he actually did play that day more than satisfied him.

Slowly, but surely, as the months passed after his introduction to the Upper House, Lord Darling reassumed old ways and mannerisms that some friends thought that he had left behind him on the Bench for all time. Soon after the rejection of his Criminal

Responsibility Bill he is speaking on the Prevention of Eviction Bill in Committee, and on an amendment moved by Lord Midleton concerning alien tenants or landlords who either served the British Empire in the Great War or did not serve it. It remained for Lord Darling to point out that the word is not "fought" but "serve" and that "They also serve who only stand and wait;" while there was "Laughter in court" a moment later. "The Government did not bring in the Bill. Ostensibly they did not; someone brought it in and they adopted it. In that connection another verse occurs to me which I cannot help quoting to the noble and learned Viscount opposite:

The Merchant, to secure his treasure,
Conveys it in a borrowed name.
Lord Haldane serves to grace the measure,
But Trotsky is the real flame.

"I ought to vote against it (the Amendment) but then I should not quite like the company in which I should find myself."

The Parliament (Qualification of Peeresses) Bill, the secondreading of which was moved in the Lords in July of the same year, gave many opportunities for liveliness in debate, and Lord Darling who supported the second reading did not fail to take advantage of these. Lord Banbury had given as one objection to the measure that an Act of Parliament cannot alter a Patent of Peerage. If that is so, replied Lord Darling cheerfully, there is no harm whatever in passing the Bill. And did the noble Lord know that before women were allowed to sit in the House of Commons they were capable of being Members of Parliament, and were Members of Parliament? There had been a woman member of that very House. Queen Elizabeth was a Member, so were Queen Mary, Queen Anne and, last of all, Queen Victoria. "I wonder whether my noble friend, when he was a Member of the House of Commons, ever came to the Bar and heard the Royal Assent given to a Bill which—I was going to say, which he had helped to pass, but I will not. If he came to that Bar, how horrified he must have been when the last words of all that were said upon it were: '*La Reine le veult.*' All the opposition that had taken place, all the assent given in the House of Commons, all the assent given by your Lordships, were useless until a woman Member of

Parliament, a Member of this very House, had said she consented to it. Then where is the anomaly ?"

Anomaly or no anomaly it must have been very satisfactory for a speaker to be able to deliver himself of views and facts in such fashion. Here, too, was a grand opportunity for quoting from Locksley Hall: "Iron-jointed, supple-sinewed," etc., and, added Lord Darling: "That is now done by the daughters as well as the sons of Locksley Hall. Only the other day, under very distinguished patronage at Wembley, there were ladies—I saw their photographs —taking part in catching the wild goat by the hair. These things were never thought of by ladies in the days of chivalry. They sat down on a daïs while the Barons, my noble friend's predecessors, killed one another for their amusement. Times have altogether changed."

There have been few debates of importance in the Lords in which Lord Darling has not taken part and in nearly all we find him confounding his opponents or illuminating his views with his favourite weapon or torch, as the case may be, of quotations from the classics. Lord Parmoor was a Chancellor of one Diocese, or perhaps of several. That being so he must have made himself acquainted with the writings of Pascal in his "Provincial Letters." "I do not for a moment impute to the noble Lord that he is a casuist, but his argument reminds me of the attitude of Pascal when he deals with the doctrine of '*La grâce suffisante qui ne suffit pas.*' Here we are to preserve the contributory principle by allowing those to benefit who have not contributed to the Fund." (Some reference to Unemployment Insurance.)

Lord Darling spoke at length, and to good purpose, on the Moneylenders' Bill. He did not fail occasionally to lighten the darkness of a somewhat tedious discussion. "If you looked at the name you were very apt to suppose that the ancestor of the moneylender came into this country and took a distinguished part in the Battle of Hastings . . . but the most illustrious ancestor he could show was one who was on the staff when that great military operation took place, the passage of the Red Sea in evading Pharoah's Army."

Many chapters would be filled in telling of half Lord Darling's activities in the Upper House. He has interested himself in energetic fashion in such widely differing matters as Infant Life, the Mining Industry, Age of Marriage, Protection of Wild Animals, Destruction

of Rabbits, and a dozen others. With regard to Rabbits we cannot refrain from quoting him briefly during the second reading of the Rabbits Bill in the summer of 1928.

"It is perfectly well-known that in countries which suffer ravages, from the mosquito, for example, the most efficient method of destruction is not to send people about with nets trying to catch mosquitoes but to encourage the propagation of their natural enemies. That is so whatever kind of animals, *feræ naturæ*, you may desire to exterminate, and I wonder it has not occurred to the Government that the proper way to get rid of this pest of rabbits is to bring in a Bill for the preservation of foxes. It is notorious that where hounds are few foxes are far between, and we should do something to redress the balance of nature and see that there is a proper supply of foxes to eat the rabbits. Lest the fox should become the pest that the rabbit is now, there should be a proper supply of hounds to keep down the foxes."

We may leave this subject of House of Lords debates on this sporting note.

CHAPTER TWENTY-EIGHT

A Canadian Tour and Conclusion

ANY essay to follow a notable man into retirement at the end of his life's work must savour of impertinence. Any attempt to follow Lord Darling into retirement would be futile. This, not because of some barrier he has erected to confound the venturesome, but for the simple reason that he does not see eye to eye with retirement as some men do. These latter, when approaching the age of eighty, will find in a pleasant country spot enough to entertain them, and the peace and quietude which they richly deserve. Lord Darling, loving the country and things that belong to it as he does, remains for the most part in his eyrie, as it were, in the Albert Hall Mansions, overlooking Scott's foolishly abuséd Memorial in particular, and London and the world in general. Thence he descends to fields of labour in the House of Lords and elsewhere, and thrives upon hard work. With some people the possession of the love of any form of retirement is to indicate the ownership of one extra sense. Lord Darling has no need of this particular form of luxury. In the foregoing pages we have seen him strive for parliamentary achievement in the House of Commons, and we have seen him succeed there. We have seen him snatched from the Commons and bidden to make good under extremely difficult conditions on the judicial bench. Again we have witnessed success in full measure. The tale of his retirement from the Bench, after twenty-six years of public service, has been told, but it has not meant retirement from public life. His valuable work in the House of Lords, still proceeding, has been all to briefly touched upon. As things go Lord Darling, besides being one of the greatest English judges of a century, may well be remembered in history as a prominent pioneer of the inevitable drastic reform of the Upper Chamber. Witness his ardent support of the movement to allow Peeresses in their own right to sit and vote with the Peers in that assembly, and his rejected motion that all members of the Government should have the right to speak in both Houses. The reader of these words will

not have to wait very long before he witnesses these and other reforms.

Since his relinquishing his seat upon the Bench, and that temporary return, to which reference has been made, Lord Darling has undertaken one important venture without the realm in the shape of a visit to Canada, when his public utterances in many cities and towns were of the utmost value in the never-ending business of welding the Dominions into the splendid shape of Empire. In Quebec, in particular, his knowledge of the French language and French history, including, of course, the tale of the French colonization of Canada, served him in excellent stead.

It was only to be expected that Lord Darling should have a very good "Press" in the Dominion, and one finds every class of newspaper closely following his tour and reporting all his utterances. He left England for Quebec on the s.s. *Ausonia*, on August 21st, 1926; in his seventy-sixth year. His daughter, Miss Diana Darling (usually referred to in Canada as Lady Diana Darling) was his sole companion. He did not include America in his trip. "You ask me," he replied to a curious interviewer, "why I am not going to America. I will give you the same answer as I gave an American. I am not sent to the lost sheep of the House of Hanover." He did, however, go right across Canada to the Pacific. The origin of the journey was to be found in the invitations to address the Canadian Bar Association which was to meet that year at St. John, New Brunswick. With Miss Darling he was the guest of Sir James Aikins, the Governor. The subject of his address, to which further reference is made below, was to be "The Administration of Justice", and Lord Darling from the first regarded the entire venture in the light of a pleasant and well-earned holiday, which, indeed, it turned out to be. His interest in it was, naturally enough, increased by the fact that he had many Canadian friends and had sat on the Judicial Committee of the Privy Council with some of the judges of Canada as colleagues, and had heard cases argued by the distinguished advocates of the Dominion.

Lord Darling delivered his address on "The Administration of Justice in Great Britain" before a brilliant assembly in St. John, N.B., on the evening of September 1st. The session was presided over by the Hon. Chief Justice Martin, Dominion Vice-President of the Association. Sir Robert Borden and Sir James Aikins were on

the platform. Lord Darling's speech was remarkable in its characteristic wit, and a model of wisdom and research. Original always in his point of view, he argued that there is no such thing as a trial by jury, but rather by judge and jury, "and I maintain that it is by judge, jury and advocate. A barrister is most essential to a tribunal if justice is to be had."

Lord Darling opened his address by saying that even among the wildest of peoples there must be law and the proper and strict enforcement of legal statutes. "All the laws that can possibly be enacted are of no use unless the people who administer them are wiser than the makers. It is because we are engaged in this absolutely necessary law of administration that we are gathered here to-night.

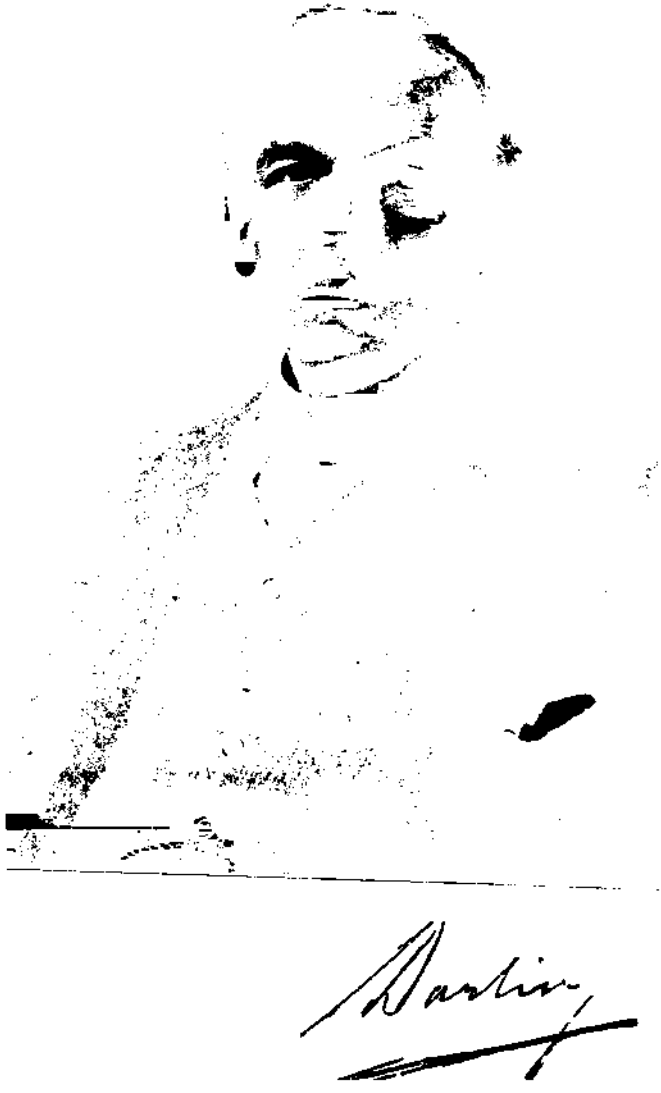
"It is sometimes said by business men that trade follows the flag. That is true, but the law also follows the flag. Trade follows the law."

Lord Darling was probably at his happiest in dealing briefly with the law in England in early times and the Norman influence upon it, going out of his way to pay a warm compliment to the excellent work being done by the Justices of the Peace in the Mother Country.

"Our admirable system of administration of justice began with Henry III when he ordered the King's judges to travel to all parts of England and sit at assize court hearings. These judges travelled on horseback to the farthest corners of the country and the precedent set by them is still followed." Lord Darling omitted to mention that one famous judge at least, in quite recent times nearly always went on circuit on horseback. This was the late Mr. Justice Day; and within the last twenty-five years Mr. Justice Grantham used so to ride down the Strand to the Law Courts for the day's work.

"The judges," continued Lord Darling, "also took the law across the seas to the colonies. They now not only administer justice in their own homes but come back to London from the colonies and sit on the Judicial Committee side by side with those who administer justice to England alone. Thus the Empire becomes more and more consolidated."

Lord Darling reminded his hearers that the law in Canada is administered partly in French and partly in English, and that for a long time French was the official language of the Courts in England, having been introduced by William the Conqueror. This continued



until the time of Edward III when advocates were ordered to speak in English. In an interesting reference to the continuity in the practice of the law of England Lord Darling cited as an example one trial presided over by himself in which he referred to an original work of the time of Edward III, a work still authoritative.

At all times Lord Darling has been an ardent admirer of the Bar of England and he found an opportunity here of saying so. An advocate was *amicus curia*, a friend of the court, and it was his duty to inform the presiding judge of any decision he might know if that would affect the case being heard. There was no nobler profession in the world. He concluded his address on a high patriotic note amid great enthusiasm, and the meeting promptly elected him an honorary member of the Canadian Bar Association.

This was not the only speech, by any means, delivered by Lord Darling in Canada. "We didn't win the war, no," we find him saying at one gathering, "but we made it easy for others to win it. We have emerged from the conflict poor, you, I and the British Empire, but we have come out of it as proud as when we entered." Up and down the Dominion Lord Darling passed on this busy holiday talking about the old country and emigration and the United States and Dean Inge and Mr. H. G. Wells and a score of other things. It was a triumphal progress and assuredly a stimulating one; domestic and friendly, too, to a degree.

This tour, punctuated with outspoken public addresses, was very refreshing to a country young as Canada still is, enabling its people to see themselves as others see them. In the Canadians, from east to west, Lord Darling found a population virile, enterprising and optimistic. "Do you not find the country very young?" a French-Canadian asked him and the reply came promptly that this is one if its advantages. "There is no crime in *la jeunesse*." Throughout his visit he made it plain that he considered the constitutional evolution of Canda important not only in itself, but because it has in broad outline supplied a model for the other great colonial dominions of the Crown and he pointed out that its further evolution is entirely for the people themselves to carry on. One of the country's great virtues, Lord Darling found, was its high sense of justice, a quality "imported" from Great Britain, an "importation" which he was glad to see Canada had not allowed to deteriorate by one iota. Whatever criticism might be levelled against Canada

she was big enough, strong enough and young enough to go on her own way to prosperity undisturbed.

Much more could be written usefully on the subject of this visit, but in the concluding chapter of a memoir such as this is it may be argued, perhaps, that already too much space has been given to it. The excuse must be that it tells of what is probably Lord Darling's last "spectacular" appearance (his hard work in the House of Lords goes on but attracts only the minimum of attention by the man in the street) and that, moreover, of an event of some political importance though the tour was of a private nature. His chief impression, as told on his return to England, was of the abiding loyalty of the people in the Dominion. They were a very fine self-reliant people, determined to keep Canada under the British flag in spite of all temptations to belong to other nations. They preferred the British race to go out there and they greatly needed men. "I told them that it was not everybody who got the dole, and that if they made application in the proper quarters they would get the kind of people they needed."

Lord Darling did not visit the United States, and while in Canada saw few Americans. But in the following year he made one of the best after-dinner speeches imaginable when in the absence of Lord Reading he replied for the guests at the Independence Day dinner of the American Society in London. It merits full quotation here :—

"I have read too much history not to know why you are Americans and I am only English. Mr. Campbell Lee in proposing the toast said he would refrain from twisting the lion's tail. He has the best reasons for saying that, for on July 4th, 1881, they twisted it off. It is no credit to you ; there is no generosity in it. It was very lucky that it was the English nation that you conquered on the field of—none of us knows the name, but we know you did it, though we don't know where. It is very lucky that it was the English whom you beat, because if it had been any other nation in the world they would never have forgiven you. But we have done so, and I come here, just as the Romans when they had won a great victory over the English—because you were not the first—brought one of us to grace their festival, and they said 'This is a specimen of what we have conquered.' I come here merely as that captive kind of

latter-day Caractacus. Lord Reading borrowed more money of you than anybody else ever tried to do, and I don't wonder that he did not care to meet you face to face. It has been pointed out to me how felicitously you Americans have chosen the site for this particular entertainment. Just outside is a statue of Sir Wilfrid Lawson. Years ago you Americans presented to us a statue which we have placed outside the National Gallery. Could we not return the compliment by presenting to you the statue of Sir Wilfrid Lawson, who may become in time, the patron saint of America? He represents your dearest passion, and further he represents, I understand, a law which you will never be able to repeal. We like to think of those battlefields across the Atlantic, and we can still drink your health, as you can drink ours, with every hope for our mutual prosperity."

The telling of the bare tale of such a busy life as Lord Darling's has been, and still is, occupies many pages. There certainly is not left space within the covers of a single volume in which to notice critically his varied literary works, which have exercised no little influence on his career. From time to time in these pages reference has been made to his published books, slender volumes all beginning with his famous "Scintillæ Juris", written when he was very young; and mention has been made of his brilliant contributions to various reviews and newspapers, even down to the present time. Frank Lockwood illustrated the later editions of the "Scintillæ". This work, with those that followed it, was reviewed, pulled to pieces and put together again in columns and columns of print. Rarely has a book of little things received such attention again and again, as each successive edition came out. Some one wrote at the time: "Mr. Darling would never have got his living by this fun." Perhaps not, but happily he had no need to get his living by writing that sort of "fun" and the world was richer in consequence.

It was said by some that "Scintillæ Juris" had too much inwardness of flavour, like some wines, and did not punish the palate as it went down. "It has a quality of style which suggests much study of Bacon in his lighter vein. Its best things would not be unworthy of the Essays, and if were read out, one by one, before a blindfolded *connoisseur* might often be assigned to that wonderful book."

There are "Meditations in the Tea Room", "Seria Ludo", and

"On the Oxford Circuit", all asking for the attention which cannot be afforded them here.

There are the countless witticisms uttered from the Bench, and off it, which made a popular idol of one whose greatness as a judge was now and then in danger of being lost sight of. It would be idle to give here a selection, as it were, of these *jeux d'esprit.*

There are the happy days of family life in the New Forest, which was ever a favourite resort of Lord Darling, and the hunting and steeplechasing—the Bar Steeplechases—and the dinners and dances of the famous Pegasus Club he helped to found. There are the friendships from membership of the Athenæum, the Dilletante, Girrillions, and the Burlington Fine Arts Club. A very full life.

May one, in regretfully leaving the contemplation of it all recall, in conclusion, but without any note of melancholy, Lord Darling's own fine lines written on his retirement from the Bench ?

NOVEMBER, 1923

Long worn, now cast aside ; red robe, lie there—
Not, when the organ throbs the nave along,
By chests of kingly dust,
And chantries old,
Shall I, with measured step and quickening heart,
Pass to the Judge's place ; and, bowed, implore
Myself be not condemned
Nor less than right decree.

Not with resounding trumpets, may I come
To sit in judgement on the regal bench ;
Dividing false from true,
With sword and even scale.
Mantle and stole laid by, and cap of doom ;
Bereft, alone, I wear no ermine more ;
Nor judge—yet one Assize
I, fearful, must attend.

PART THREE
Directions to Juries

APPENDIX I

The Trial of Steinie Morrison
*The Charge to the Jury**

GENTLEMEN of the jury, you are here, as you know, trying a man of foreign nationality. I know not how in his own country he might be tried, but you will try him, of course, strictly according to the law of England, which, if it differs from the law of other civilized countries, errs always on the side of mercy. It requires more proof, it certainly gives greater advantages to an accused person, and it requires this, that, in order to get a conviction you should be satisfied of the guilt of the accused beyond reasonable doubt, and also that the jury which tries him should be unanimous, which is not the case in many other countries.

Now, gentlemen, I need detain you, I think, but a comparatively short time in what I have to say. A great deal of evidence, it is true, has been given in this case; but you have heard every point put again and again, commented upon by Mr. Abinger for the defence, and within the last few minutes by Mr. Muir for the prosecution, and I cannot suppose that there is any point in this case upon which you are not by this time fully informed as to what is proved, and as to the argument used upon each side with regard to it.

A good deal in this case is beyond dispute and is not contested. It is beyond dispute that in the very early hours of the first day of this year, somewhere about three o'clock, probably, Leon Beron was killed at a point on Clapham Common, upon the asphalt path close to those bushes which you have seen yourself; that his body was dragged in there, and there left. That is beyond dispute. It is beyond dispute, too, that death was due to murder, and to nothing else. Then, if you can ascertain who killed him, that person is guilty of the wilful murder of Leon Beron. There is no dispute about that.

* The author is indebted to Messrs. William Hodge, Ltd., Edinburgh for freedom to quote this and the other charges to the jury contained in this Part from various volumes in the series of books entitled "Hodges Famous Trials".

How was he killed ? He had about him many, many wounds, several of which were in themselves sufficient to cause death. He had a blow upon the head which must have felled him instantly to the ground, and which in the opinion of those, the doctors, who saw the dead body very soon after his death, was of itself sufficient to kill ; his skull was fractured in two places ; but beyond that he had received a variety of stabs about the body from a long knife.

Now, gentlemen, it may be that he was killed by one man only ; but it is quite possible that more than one man was engaged in this murder. Two weapons were undoubtedly used upon him, one of which was a blunt, heavy weapon. The doctors say : "Something like a bar of iron might have done it." One of them thought the bar would probably have some sort of angle about it ; something like a thing which is hexagonal or octagonal in shape, might have inflicted them. Neither of them thought that the thing which caused the wound was a hammer. A claw-ended hammer was suggested to the doctor who was called for the defence. He thought it must have been something with a right angle about it, such as a hammer would have, but he had nothing in the world to go by except a photograph, and his evidence, therefore, is not the evidence of persons who were in such a good position to judge as were the other two. He explained his theory to you. I leave it there, content that you shall judge it. But that some instrument, be it a hammer or be it a bar of iron with angles or round, was used upon the head of Leon Beron, again is uncontested. That may have been used by a different man from the man who gave the stabs. If Leon Beron was the man who was driven by Hayman to the top of Lavender Hill with one man only, whether it was the prisoner or somebody else, then they were joined by another man, or the other man was waiting on Clapham Common at the place to which he was taken, and there he was set upon and killed. Now, gentlemen, whether there were two or not two men we do not know, but if two men were employed upon that murder, either the man was waiting there, if the prisoner was the man who went with Leon Beron in the cab if the other man went with him ; the assumption of the prosecution is that Beron went in a cab with one man only, and that man was the prisoner.

Now, gentlemen, beyond this, as to how the murder was caused we are absolutely in the dark. We know nothing of the motive.

That he was robbed there is the best of reasons for supposing, for he always wore a watch and chain. Everyone agrees with that. When the body was found he had no watch, he had no chain, he had nothing upon him but a halfpenny, a tobacco pouch, and a couple of bags with small remnants of sandwiches in one of them. Therefore, you may very well come to the conclusion that robbery at all events entered into the motive. Mind, it may not have been the exclusive motive. There may have been other reasons for killing Leon Beron of which we know absolutely nothing. It is suggested that it is the work of some secret society, and that the cuts upon the face show it. I am not going to give my opinion about it. It is not for me to express an opinion about matters of fact. I can only say that any one who sees the figure "S" in either of those scratches has either better eyes or a more vivid imagination than I can possibly claim to possess. It is for you. Killed he was, for whatever reason.

When do we know for certain that he was? We know for certain that at 11.50 he was at the corner of Sidney Street, Whitechapel. That we know beyond dispute, because we know from the evidence of the prosecution—people who were at Snelwar's restaurant—that he left Snelwar's restaurant about 11.45, and we know from the evidence of the prisoner himself that he saw him at that time, 11.45, or within a few minutes of that—the same time as Leon Beron left it. And the corner of Sidney Street Beron said to him: "*Bon soir*," and he said: "*Bon soir, monsieur*," and he says that is the last time that he ever saw Beron.

Now, gentlemen, I am going to deal very rapidly with this, for this reason. The prosecution have called a great deal of evidence —Mintz, Hermilin, Taw, and others—to show that on that night the prisoner and Beron were on intimate terms in the restaurant, and it is said they left it together. The prisoner says: "No, that is not true; I was not in the restaurant that night." He says that he was at the Shoreditch Empire on that night, that he came out of the Empire at twenty minutes past eleven or half-past eleven, walked up to Snelwar's restaurant, looked in, had some very light refreshment (he forgot what it was), and then left immediately, and, having said "*Bon soir*" to Beron at the corner of Sidney Street, went home to bed, and never left his room till next morning. I give the go-by to all the evidence of the Brodskys and to the evidence of the people

at Snelwar's restaurant, because, as to the bearing upon what has happened in Snelwar's restaurant, Mr. Muir has lately addressed you, and Mr. Abinger has also fully dealt with it; but upon the point of where he was and where Beron was at 11.50 on that night, they were close together, and they were speaking to one another. Where did they go? He says he went home and went to bed. Zaltzman, Taw and Weissberg all say that they saw him and Beron about the streets in that neighbourhood long after, up till nearly two o'clock in the morning. Mrs. Deitch says the same; that she saw him some time after one; she very vaguely fixes the hour. She says she saw him and Beron walking along together. She knew Beron, but she had never seen the prisoner before. She described how he was dressed—wearing a smart cap, and so on. If you believe those people, why then the whole *alibi* which he called the Zimmermans to prove is gone; it cannot exist. But the question you must ask yourself is this—Are you sufficiently convinced by the evidence of Taw, Zaltzman, Weissburg, and Mrs. Deitch that when they say they saw him they really did see, not some other man, but that man with Beron long after twelve o'clock at night—somewhere between one and two o'clock, up to very nearly two o'clock? If you are convinced of that, why then the prisoner stands, you know, convicted of having told you an absolute untruth as to where he was—that he was at home all night—and it is inconsistent absolutely with the evidence of Mr. and Mrs. Zimmerman. Although they may not know how inconsistent it is, it is inconsistent with their impression that he never was out from the time he came in that night. Of course, if you regard it as proved, that he was walking about at the time spoken to by Zaltzman, Weissburg, Mrs. Deitch, and Taw, why then, one of two things must have happened; either he did not go home that night, and the Zimmermans are saying what is not true, or else he did go home, and, for some reason or other, very soon afterwards let himself out of the house unknown to the Zimmermans, and rejoined Beron. But that last alternative seems a curious hypothesis, because it would involve this, that Beron was walking about the streets alone, as far as we know, waiting for him. Of course, he may have been doing it, but it involves what is to my mind a violent hypothesis, and one which perhaps you are not very likely to adopt.

Beron, that night after he left the restaurant, got something to

eat; he got some ham sandwiches. I mean to say, he ate them; I do not say he procured them afterwards, but he certainly did somehow eat ham sandwiches after he left that restaurant. There can be no manner of doubt about that. I do not say ham sandwiches, but he ate the meat and bread which were found undigested in his stomach after his death. He took some alcohol. There is no evidence of where he got it. Some slight remains of ham sandwiches were found in his pocket, and from that it is suggested (it is not proved) that he must have purchased a ham sandwich after he left the restaurant.

There is no explanation of where he got that. Now, you must take it that no witness for the prosecution says that he saw the prisoner go with him to any kind of refreshment place. No one ever says that they took such things away from Snelwar's restaurant. There is no suggeston that with the prisoner he ever got hold of ham sandwiches or of alcoholic drink.

Now, what is the next thing we know? We know—I suppose we know for certain—that at two o'clock in the morning a man hailed Hayman somewhere by Gardiner's Corner. Hayman is of opinion that that man was the prisoner. Two men got into Hayman's cab. The suggestion of the prosecution is that Beron was one. It is not certain that Beron was one, but it may well have been, because I think you may take it for granted; seeing that old Beron was at about twelve o'clock at night at the corner of Sidney Street, that he undoubtedly was murdered somewhere about three o'clock in the morning as far as we can tell, and he did not get to the place where the body was found by walking at that time of the night, being of the age and build that he was, you would consider it not to be at all improbable that Beron was driven to Clapham Common that night. Well, then, Beron may have been one of the men driven by Hayman, but it is not certain that he was. Hayman does not identify Beron anything like so distinctly as he identifies the prisoner. I will not deal at this moment with the question of identification. Hayman drives him and takes him at about two o'clock—he could not be certain to minutes—he drives two people (no one says he did not drive two people) from Gardiner's Corner to Lavender Hill by Lavender Gardens. No one disputes that one of the men who told him to go there said: "Put me down near the Shakespeare Theatre." Supposing Beron was one and the defendant was the other, which

was Hayman's opinion, what would happen then? If the time taken was the exact time which Stephens took (Stephens took thirty-eight minutes), it would be about twenty minutes to three, as they left Gardiner's Corner a little before three or a little after three, when he got the men, whoever they were, to that point near the Shakespeare Theatre, or wherever it was Hayman put them down. Now, gentlemen, walk from there to the place where the body was found. You have done it. It is said by the police witnesses who walked it that ten minutes would be the ordinary time to walk it in, but you can correct that by your own experience because you walked it. That would bring him there, you see, at about ten minutes to three. Now we know it takes, according to the evidence for the prosecution (here, again, you can check it by your own experience) eleven minutes to walk from where the body was found to Clapham Cross. At somewhere about three o'clock in the morning Stephens says the prisoner got into his cab to drive him back. Therefore the time (of course, nobody pretends these minutes are accurate) in which that murder was committed is very, very short; it is a few minutes at the outside. That is one of the reasons, gentlemen, why I suggest to you that perhaps the hypothesis that only one man did it is not the true hypothesis, and why I suggest to you that the fact that two weapons were used to bring about the man's death may well point to there having been two men present differently armed.

Now we take up the matter. At somewhere about three o'clock Stephens says he picked up the prisoner. I am not going to comment upon it, as you have heard it commented upon over and over again. I am giving you, gentlemen, just an outline which I hope is distinct, because I think it will assist you more than if I go too much in detail into it. Many people do not remember in commenting upon evidence that you may do it in such a way that, as was said very wisely and picturesquely at the end: "You cannot see the wood for trees." It is said by Stephens after he has corrected his evidence (you must use your own judgement as to whether he legitimately corrected it, or whether he corrected it because he is the perjurer that Mr. Abinger says he is, who has arranged his evidence to suit another man for the reasons you have just heard given), according to him, going by the time the staff tram left, he left that place at Clapham Cross at about three o'clock. By that time Beron would have been dead somewhere about ten minutes. He drove to Kennington—a place near Kenning-

ton Church—"Hanover Arms," and I think, if I remember, the whole time which has been taken from Clapham Common to the rank by the church and back to Cleveland Road, and then trotting and walking the horse to the "Elephant and Castle", is 16½ minutes, so that it does not take——

MR. MUIR: No, eleven minutes to the Hanover Arms, and then 16½ minutes.

MR. JUSTICE DARLING: I am obliged to you. It took eleven minutes from Clapham Cross to the "Hanover Arms." There he puts down the man whom he has driven from Clapham Cross. He said that before he put him down he had heard someone call, but could not find that person. He went back and looked about. You remember how he went and trotted the horse, and then walked his horse down to the "Elephant and Castle". He put up, after that, for the night. The man he had driven got out by the "Hanover Arms", and Stephens saw him no more. At this time it must have been somewhere between three and a quarter-past—something like that. Almost immediately Castlin, who is on the rank at Kennington Church, is hailed by two men. Whether another man who had been engaged in this murder who had left by another route had got back just before the man driven by Stephens, or whether a man who was expecting the booty and was the man to dispose of it, was waiting there, or however it may have been done, we do not know, but just after Stephens had dropped one man, and just after Stephens had heard another man call, two men engaged Castlin, paid him 7s., I think it was, and told him to drive to Tottenham—to Seven Sisters Road. He did not tell him to drive to Tottenham; as a matter of fact, he drove them to Seven Sisters Road. These three men, with varying degrees of certainty—Hayman, Stephens and Castlin—all swear that the prisoner was the man who was in Hayman's cab, in Stephens' cab, and in Castlin's cab. Of course, he says he was not. But if you come to the conclusion that he really was, of course, it becomes very difficult for him to explain why he was in that neigbourhood unless he was engaged in that murder. Ask yourselves whether he was the man or not. Are you satisfied that the man who was driven by Stephens, and by Castlin afterwards, away from the scene of the murder, was the murderer, or one of the murderers—a man who had been engaged in it? Are you satisfied of that? If you are not satisfied of that, then there is no necessity

to ask who he was. But, suppose you are satisfied of that, then comes the question, was it the prisoner ?

The prisoner says he was in bed and asleep. Those three men say he was not in bed asleep ; they say, just as Jack Taw, Zaltman, Weissburg, and Mrs. Deitch say, he was not in bed and asleep when they were in Whitechapel. These three men say he was not in bed and asleep when they were driving up this road and coming back.

Here really comes, to my mind, the deciding point of the case. If he were the man, how can you account for his being out there and denying that he was not out there—not saying: "Oh, yes, I can give you this reason why I was there ; I had gone for this, that, or the other reason." How can you account, if he was the man who was there, for his being there unless he was either the sole murderer or a participant in the murder (in which case he is equally guilty) of Beron ? Therefore, at this point it becomes very necessary to ask yourselves—are you satisfied—beyond reasonable doubt, mind, not, do I think on the balance of probabilities ; that is not it—are you satisfied beyond reasonable doubt that that is the man who was in Hayman's cab, in Stephens' cab, in Castlin's cab on that night ?

Stephens has been attacked, and he has been called a perjurer. So many people have been called perjurers by Mr. Abinger that Stephens has no right to pride himself on that ; but the others have not. Now, mind, these men may be perfectly honest, and they may be mistaken, or you may not be able to make up your minds as to whether they were mistaken or not. If you cannot make up your minds whether they are mistaken or not, he is entitled, as the defendant, to a verdict of not guilty. I do not want to speak for myself, but, think for yourselves. With what certainty can you, do you think, swear to a man whom you saw on a night like that, by the kind of light that there was at these places which you have seen ? Can you feel certain that a man would not be mistaken, and that he is not mistaken ? You have heard the description that they gave. Suppose you had got that description, could you, from the description alone, if you had a dozen men, of whom the prisoner was one, before you, have picked him out ? Do you think you could ? You remember what they were. I do not mean the evidence given afterwards when they pointed him out, but the statements that they made as to his being "tall" and "medium complexion", and so on. What is a "medium complexion" ? That is the kind of evidence.

Do you think from that description you could have picked the man out? I think, myself, it is a very difficult thing to describe a man. Suppose I look at a man in Court, and am asked to write down a description of him, do you feel certain, if I did write it down, that you could pick him out from other men in Court I do not know? They gave a description. Let us assume they gave it to the best of their ability; let us assume they were honest. Even then, are you so certain that they really took notice enough, that they had opportunity enough, to be able some days afterwards to swear with certainty to the man they had driven, and to swear with certainty that he was the man when they saw him again.

Now, gentlemen, something has been said about the means they had of identifying him before they gave their evidence, and it certainly is to be regretted (I do not reproach these men at all, but it is to be regretted) that they had the means, if they chose to use them. Apparently one of them did use them, and honestly said he did; he saw the paper with the man's photograph lying on the desk when he went to the police station; but, before they picked out the prisoner at the police station, they, each of them, had the means if they used them, and certainly one of them, innocently enough, if you like, did use them, and the others may have done—they had the means of knowing what was the personal appearance of the man they were going to identify. Gentlemen, strong language has been used about this photographing of people and the publishing of photographs. You yourselves have made a protest which must by this time have reached the authorities against the indiscriminate snap-shotting of those engaged in such a trial as this. There is no necessity to point out the inconveniences, and possibly the dangers, of such practices as that, but it is a far graver thing when people are permitted to take photographs of accused persons who have not been identified, and who are yet to be put up for identification by those who are to give evidence against them on their trial.

Gentlemen, sitting here where I know one's words are heard beyond the limits of this Court, I am not going to indulge in a condemnation of the Press for publishing these photographs. There may be a measure observed in this as in other matters. In many ways the Press by publishing descriptions and by publishing even photographs can help, and does help, and notoriously has helped, to the identification of persons who are suspected of a crime; but

it is quite another matter after a person has been arrested and is awaiting his trial that anybody should be permitted to take his photograph, to reproduce it, and to publish reproductions of it all ever the place so that they may be seen by possibly uncertain witnesses, who will thereby be persuaded to come forward and swear to identification which they would not otherwise have done, or they may possibly (that is not suggested in this case) come before malicious witnesses who may come, and for some of those reasons which we cannot fathom but which we know do influence people, will swear to a man as to whom they have no certain knowledge. Gentlemen, in this case I think it is to be deeply regretted that those photographs of the prisoner were published when he was merely an accused person on remand on suspicion of having committed this crime. It is perfectly obvious the damage which it has done for the prosecution. It may possibly have frustrated the whole ends of justice; it is quite possible, and because it is so I think I need say no more than this, that it becomes imperative that the authorities at the Home Office, who are the proper persons, should consider this matter, and should consider whether regulations which would require an Act of Parliament must not be made in order to prevent the repetition of a practice which may possibly tend to the casting of great doubt upon the evidence of perfectly honest witnesses by showing that they had other means of identifying the prisoner—who, when he is put in a row with others, is supposed never to have been seen by them before—than the mere sight of him at that time as on the first occasion.

Gentlemen, I pass from that and I come to a matter which I had meant to deal with, and which I had overlooked—I should have dealt with it before this last matter. It is the question of the blood upon the prisoner's clothing. It was suggested at first that the blood upon his clothing was the blood of Beron, the murdered man. That it was the blood of a man is not disputed. He has accounted for its getting where it did; but, gentlemen, I do not know how it strikes you—mind, I express no opinion—I throw this out merely for your consideration—when it is said: "Would you expect blood to be upon the murderer a week after the murder; when he had every opportunity of getting rid of it, would you expect him to leave a single drop of blood upon anything that he wore?" I suppose the answer expected by the defence is: "No, you would not." I think

it is not doing much violence to suppositions to say that that would probably be your answer: "No, you would not." But, gentlemen, if he was the murderer, whoever the man was who took Castlin's cab and went up to Seven Sisters Road and walked, as far as we know, to some house or another there, because he did not come back again, but got out, and he wanted to go to Seven Sisters Road, had very ample opportunity of destroying every bit of clothing that he had got about him if it were necessary; nothing would have been easier. If that was the murderer, and he was with another man who was an accomplice of some sort, nothing would have been easier than for him to get rid of his shirt, his collar, his necktie, and everything. Therefore, when you say this blood is not the blood of the murdered man—well, suppose it is not; there were opportunities if that was the murderer who went to Seven Sisters Road of getting rid of that before the murder was seen by any witness in this case. If it were the prisoner, if Mrs. Zimmerman and Mr. Zimmerman, and the woman who lived next door, are telling the truth, he was back at between nine and ten o'clock in the morning—at all events back; (he says he was at Zimmerman's, and never left there); he was at the back washing himself at the tap, and so on. If that is so, he had come back somehow or other from Seven Sisters Road. Mr. Abinger said to you—and I thought said with great force—if that is so, it is curious that nobody noticed him coming back from Seven Sisters Road. It is a long way. There are many streets to pass through, and no one noticed him. No one did, and yet on the supposition that he was the murderer, and he went in Castlin's cab, he did go to Seven Sisters Road, and he did come back, and was back early in the morning.

Now, gentlemen, I have almost finished what I have to say to you. If there is any point which you think I have overlooked upon which you wish my guidance, if you will mention it to me, I will address myself to it.

Now, we come to some consideration as to the defence. The evidence of the defendant you have lately heard summarised very accurately by Mr. Muir as to what he was doing, where he went when he left these premises, why he left them, and so on. Gentlemen, there is no doubt about it, the evidence leaves much to be explained. All that about the revolver, and so on, is very suspicious, gentlemen, but you know you must not convict a man on one suspicion; you

must not convict him on a thousand suspicions; you must not add a thousand suspicious circumstances and say, "that is proof." No, you must find somewhere a solid anchorage upon which you can say: "I am secure of this basis." Some things he did which damage his defence to my mind very much. There, again, you must not let that prejudice you. It is difficult to preserve a perfectly clear and even mind in favour of a man if you can see that that man had said before you in the box what is not true, and if he has called evidence of other people which you believe to be false. Suppose you come to the conclusion that he never did go to the theatre on the 31st, then the evidence of all those people at Snelwar's restaurant rises up strong against him, but yet he may have been at Snelwar's restaurant; they may be telling the truth and he may be telling a falsehood; he may have come out with old Beron, and he may, as he said, have left old Beron and gone home. It may be that he did say, "*Bon soir*" to Beron and leave him and go home, and yet it may not be true that he had been to that theatre at all. The fact that a man calls a false alibi, calls false witnesses, does not necessarily or by a long way prove that he is guilty. I do not comment upon it, but it may be that you are satisfied that he was not at that theatre with those two Brodskys, but that is no proof of his guilt. It may be that you have come to the conclusion that the evidence they gave is false. It was evidence which they did not give when first interrogated. They spoke at first about being there on the Monday. Jane Brodsky never told the police that she saw him on the Saturday, and would not tell them. You may come to the conclusion that that is a fabricated alibi, fabricated by him or for him, and sworn to falsely by the Brodskys. You may think it is demolished and blown out of Court by the evidence of Hector Munro and by its own inherent improbability, but, supposing you do come to that conclusion, why, even then, he may not be proved to be guilty—he may be guilty, and never proved to be guilty; he may be guilty as a fact, and he may not be proved to be guilty. Let me give you this caution (I think I am justified in giving it to you, although there is no evidence of it in this case; I submit it to you as a thing you know for yourselves), this man is a foreigner, those Brodskys are foreigners, apparently Polish Jews; they are Polish Jews or Russian Jews. He was a Jew when he was writing that letter to the Home Secretary; he said he was a Hebrew then, and that his name was Petropavloff.

Ask yourselves, do you or do you not know that it is very common among people of certain classes and of certain nationalities if they have got a good case not to rest upon that good case? If you have ever talked to anybody who has administered justice in India you will know that there, if they have got a good case, they are not content to rest upon the good case, because they are convinced that perjured evidence will be brought against them, and that in order to overthrow the perjured evidence, which they suspect will be brought against them, they themselves procure perjured evidence to defeat the case which will be made by the other side Gentlemen, I make that observation, as you see, in favour of the prisoner, to suggest to you this, that if you come to the conclusion that this alibi is false, you should not judge it then as strictly against him as if it had been produced by an Englishman, because if you know yourselves that there is that habit and that likelihood where foreigners are engaged, you are bound to give him the benefit of every doubt, and you are bound to give him the benefit of that doubt among others.

Now, gentlemen, as to dealing with the evidence in this case, I have done with it. There is evidence (I cannot say there is not) for you to consider, and carefully consider, as to whether this case is plainly made out against that man so that you may say he is guilty of the murder of Leon Beron; but before you say he is guilty you must be convinced that the evidence can only be explained upon the assumption that he is guilty. If upon any part of it which is necessary to the deciding of his guilt or his innocence you have a reasonable doubt, you must decide it in his favour. You know without my telling you a reasonable doubt means such a doubt, not as some people "conjure up" about anything, but such a doubt as would influence a man in his own ordinary daily affairs.

Gentlemen, in one part of our country there is the power of giving another verdict besides that of "guilty" or "not guilty." It is possible in Scotland to return a verdict of "Not proven." An English jury cannot do that, but for all that, if they come to the conclusion that the case is not proven, although they may not say "Not proven" aloud in Court, they give what is, after all, an equivalent verdict. If it is "Not proven" "they must not say, "Oh, it is not proven, but we find him uilty"; they must say, "It is not proven; therefore we acquit him."

Now, gentlemen, I have dealt with the case, I think, with sufficient fulness to enable you who have attended as you have, as everyone acknowledges you have—so thoroughly to every point in this evidence—I have dealt with it in such a way, I think, as to direct your attention to the necessary matters in order to enable you to come to a conclusion in this most serious case. Consider it, gentlemen, attentively and carefully. I know you will. And remember what I have said, that it is the characteristic of English justice that we do not seek to avenge a crime; we do not seek upon the balance of probabilities to say: "Some one must be held responsible for this"; we only seek to find out by our methods, our strict rules and methods of evidence, whether the accused person is proved to be guilty, and if he is not proved to be guilty there is only one verdict which an English jury is permitted to give. Gentlemen, you consider it. If the case is proved, I know you have fortitude enough to act upon your conscientious judgement and to say that he is guilty; but if you are not satisfied you know your duty, and I am sure you will do it.

MR. MUIR: Your lordship indicated that with regard to the question of previous convictions you would address some observations to the jury by way of caution.

MR. JUSTICE DARLING: I am much obliged to the learned counsel for the prosecution. I did say that I would refer to the question of previous convictions. You know what the previous convictions of this man are. It has been perfectly well explained to you that he might have stood here and no one would have known of those previous convictions had not his own counsel made it necessary—I think it was absolutely necessary for the Crown to bring out what was his true past history. That was done because he insisted, and his counsel insisted, upon an attack upon the character of a witness, possibly of more than one witness, for the Crown, an attack which brought the defence into the position that they had lost the protection given to the prisoner by the Criminal Evidence Act of 1898. If it had not been for those attacks you would have known nothing about this. He has only himself and those who have conducted his defence to thank for the fact that you know what you know about him.

Gentlemen, I did say that I would give you a word of caution, and I am obliged to the learned counsel for the prosecution for

reminding me. It is right—the Legislature has said it, and you and I must not question it—that in these circumstances, although in no others, a jury should be informed of the past criminal career of the accused; but, gentlemen, the caution I meant to give you is this. It must not be allowed to prejudice or warp your judgement, and, believe me, no one is more conscious than I am of the danger that such knowledge as you now have should warp the judgement not only of you but of myself. It is almost impossible to put as good a construction now upon the most innocent thing that that man may do as it was when you believed him to be an unconvicted man. But, gentlemen, bear in mind that the only use to be made of these previous convictions is to show that when you have to rely upon his word as contradicting something stated by somebody else, or as alleging something which is not corroborated, you have not the word of a person who has done nothing wrong, who has never told any lie, and who has never broken the laws of England; you have only the word of a man whose past career has been what you know it to have been. Mr. Muir has indicated to you that he felt bound to go into the matter. I think he was bound to go into it for another reason, as to the capabilities of the prisoner—and it has a bearing upon that—the capacity or not of the prisoner for getting into or out of a house without making as much noise as a person would make who had never done it before.

Gentlemen, with those words, which are all I need add to what I have already said to you, I would ask you to retire to your room and consider, and let me know when you have arrived at a conclusion.

Two officers being sworn to take charge of the jury, they retired at eight o'clock. They returned into Court at 8.35.

THE DEPUTY CLERK OF THE COURT: Gentlemen, are you agreed upon your verdict?

THE FOREMAN OF THE JURY: We are.

THE DEPUTY CLERK OF THE COURT: Do you find Steinie Morrison guilty or not guilty of the murder of Leon Beron?

THE FOREMAN: We find the prisoner guilty.

THE DEPUTY CLERK OF THE COURT: You say that he is guilty and that is the verdict of you all?

THE FOREMAN: That is the verdict of us all.

was no difficulty with regard to that, because none were put by either side), and it is my duty to see that all that can be elicited by fair and proper questions from any witness whatever is at your disposal, because you have a grave and onerous duty to perform when you have to deliberate upon your verdict.

. . . You know (I dare say it is unnecessary to say it) that it is not for any person accused in an English Court to prove that he is not guilty; he pleads not guilty; that means, "I call upon the Crown to prove my guilt." A verdict of not guilty consequently does not mean that he has proved himself to be innocent, nothing of the kind; it means that the Crown has not proved him to be guilty; that is all. Therefore you must ask yourselves always, has the Crown proved this or that against the prisoner to our satisfaction, this which involves his guilt? If not, it is not proved, and you say not guilty; that is your duty. If you have a reasonable doubt as to whether he is proved guilty or not, you must say not guilty. That is the law of England, and a reasonable doubt means this, it does not mean that you do not like to do it, it does not mean that it is disagreeable to you, it does not mean that by some possible hypothesis you can arrive at that conclusion. There is hardly anything of which a really subtle and ingenious mind cannot convince itself; there is hardly any truth that a subtle and ingenious person cannot bring himself honestly to doubt. But it means that you say you are convinced, unless when you consider the facts you have a reasonable doubt as to whether the matter is proved or whether it is not, a reasonable doubt in this sense. If it is the kind of doubt, not such as you would conjure up in the middle of the night, but such a reasonable doubt as in the daytime when you are about your business would lead you to say, well, I cannot make up my mind about it. Suppose you were buying a horse or selling one, and you had to resolve suddenly whether he had got some disease, say, spavin. You say, I am not sure he has, maybe he has not, but it is so uncertain that I cannot say one way or the other. That would be a reasonable doubt. Of course, that is not exhaustive as to what is reasonable doubt; I only give you that as an instance, because we are here in the country, and the kind of doubt that a man has to do with in his daily life is the kind of doubt which the law looks to in order to justify a man in saying, when he sits as a juryman in a Court of Justice, "I am not convinced of this or that." It has been said here

that in this case you are dealing with what is called a case depending upon circumstantial evidence. That is so. There are people, I dare say you have come across them, who will say, Oh, it is only circumstantial evidence. Nothing can be more foolish. Circumstantial evidence is as valuable as any other evidence, provided it be good evidence. Circumstantial evidence going to prove the guilt of a person is this, that one person proves one thing, another proves another, and another proves another, and all these converging facts are proved to conviction beyond reasonable doubt. Neither of them proves the guilt of the person, but taken together they do lead to that one inevitable conclusion; and if that is the result of circumstantial evidence it is a very much safer means of arriving at a conclusion than if one witness gets into the box and gives direct evidence and says: "I saw this crime committed." What would you have thought if someone had come and said, "I never was in Mayfield before, I have never been there since, but I went there on the 16th February, and I happened to see the defendant, or let us say I happened to see the deceased, Mrs. Armstrong, go to the bureau and take out the packet of arsenic and measure out 3½ grains, or 6 grains, or whatever you like, and go and fetch a glass of water, and put the powder in, and swallow the stuff and walk upstairs and get into bed, and I heard her say, 'There, that will settle it'." What would you think if you got that? That would be a piece of direct evidence, there would be no circumstantial evidence about that. It would prove the very thing that is suggested that she committed suicide, and the only other thing which would have to be proved would be that she died. But would you believe that? If you find a number of things proved, one thing by one witness, another thing by another, another thing by another, and another by another, and those witnesses not acting in concert, Mr. Davies proving one thing, Dr. Spilsbury proving another, Nurse Allen proving another thing, Nurse Lloyd proving another, Sir William Willcox and Dr. Toogood (because in many things they agree) and Dr. Ainslie proving the same thing, and they all point to the same conclusion, be it the conclusion of guilt or innocence, would not you say there is nothing like circumstantial evidence if you get enough of it trustworthy? And yet it remains that some ignorant people who have not studied the question call this "only circumstantial evidence."

With regard to this particular case, the charge is that the defen-

dant murdered his wife, Mrs. Armstrong. You have had introduced into the case a kind of side issue ; it has been said that he attempted to murder Mr. Martin, and you must remember that the charge upon which he was arrested was not the charge of murdering Mrs. Armstrong ; that had not then been thought of, so far as I know ; what he was charged with was attempting to murder Mr. Martin. . . . Arsenical poisoning is difficult to detect, and those who considered the case of Mr. Martin . . . came to the conclusion that it would be just as well to look a little further and see if by any chance Mrs. Armstrong died of the very thing which Mr. Martin was supposed to be suffering from—arsenical poisoning. . . . What was found in regard to Mrs. Armstrong ? Is it a remarkable coincidence or is it not ? . . . there was still in that body more arsenic than some who are accustomed to deal with these things have found in any exhumed body before. Yet, mind, that body . . . was exhumed because a man who had lately had tea with the defendant was believed to be suffering from arsenical poisoning, and it was thought that it might be that the wife of the very man who gave the tea to Mr. Martin had died of similar arsenical poisoning. . . . Could it be said that she took it accidentally ? It has not been suggested. . . .

Something has been said to you about motive. The Attorney-General and Sir Henry Curtis Bennett both addressed you upon that, and, naturally enough, because whenever it is said that a person has committed a crime anybody says, But why ? For what reason ? In the case of Mr. Martin, what was suggested was that the arsenic was given to Mr. Martin because the moment had come when Mr. Martin and the defendant had reached a point which made the situation very unpleasant for the defendant. . . . Mr. Martin was saying, "You are the stakeholder, you owe these farmers this money, or you owe them the conveyances which will make the land theirs." He has told you how he was being put off, whether because it could not be done or not you need not trouble, but it was not done. Then Mr. Martin was asked to tea, and he suffered from the symptoms you have heard and he recovered. He told you how then he was pressed again and again to go and have tea with the defendant, and how it got to this, he was not asked to Mayfield, but the defendant took to having his tea down at his office, it may be for a perfectly good reason ; he got a gas ring on which he could heat some water.

it may be for a perfectly good reason, but he kept on pressing Mr. Martin to go and have tea with him in his office, and Mr. Martin never would go, and never did go. Sir Henry Curtis Bennett said there is nothing remarkable about it; Mr. Martin took to having tea in his own office. So he did, but he told us why, and the reason he gave was that he wanted to have an excuse for not going to tea with the defendant.

SIR H. CURTIS BENNETT: One reason.

MR. JUSTICE DARLING: One reason, and a very sufficient one. Now, how comes this case of Mr. Martin to be important here? That was a question of law which was argued when you were not present in Court. It is purely a question of law. It was submitted that Mr. Martin's case had nothing to do with this one, and many cases were cited, some to show that it had and some to show that it had not, and the conclusion at which I arrived was that the evidence in Martin's case was material here and should be heard by you. (And, let me tell you, if I was wrong in that, if I decided that point wrongly, and there is a conviction in this case, that will be quite enough to upset the whole proceedings.) Therefore you may depend upon it that I gave my best consideration to it, and I came to the conclusion that Martin's case has a bearing upon this one. What is the bearing? The bearing is this, that it is of value as showing that the defendant had arsenic in his possession, and that he would use it to poison a human being. Let me say at once, if he is not proved to have given arsenic to Mr. Martin with intent to injure and kill him, if you come to the conclusion that he did not do that, then all the evidence given in Martin's case has no bearing whatever upon this case—none at all. But if you come to the conclusion that he did give it, why, then, it has a bearing, as showing that he had got poison and what he was prepared to do with it; as showing that he was prepared not merely to use it on dandelions and things of that kind, but that he was prepared to use it on a human being if he had what to him appeared sufficient reason to do so.

What is the suggestion now of how he did it? He asked Mr. Martin to tea at Mayfield. He was there before Mr. Martin arrived; it is said he was about in the garden, and the suggestion is that he had in his pocket, or that he might have had at all events, one of these little packets such as he had in his coat in December, and that he put the poison upon the food of Mr. Martin, upon something that

Mr. Martin ate, just such an amount of arsenic as was in that little packet, because we know that what was in that packet was capable of killing not only a dandelion, but was possibly a fatal dose for a human being. On what did he put it? Of course, the prosecution cannot tell you on what he put it. Who were there? Martin and Armstrong. Martin did not see him put it on to anything; if he had he would not have touched it. Many, many people have been poisoned, and poisoned with arsenic, some in this country, more in others, but, of course, these people did not see what was being done. No one who had been asked to dine with Cesare Borgia would have eaten anything if they had seen him putting white powder on the victuals. So the prosecution cannot be expected to say exactly what it was that Martin may have taken with that stuff, if the defendant gave it to him. . . . it may be that there was no poison. It may be the doctors are right who suggest to you that any poison which was in anything submitted to the analyst as being the product of Martin did not contain arsenic which came through Mr. Martin's system at all; it may be they are right when they suggest that Mr. Davies did not wash the bottle properly. It may be Dr. Toogood is right when he suggests the arsenic was on the cork. Mr. Davies took what he imagined to be a new cork, but it is suggested for the defendant that there may have been some arsenic on the cork, and it may be due to arsenic in bismuth or peroxide of hydrogen. It may be that; but the prosecution say no, those are all suggestions, those are all vague possibilities; Mr. Davies is a man of experience, Mr. Davies does not let his new corks roll about in arsenic powder, he knows how to wash bottles properly, and the arsenic came from Mr. Martin. You will find evidence which will show that certainly it might have done so.

. . . "In my opinion Martin's illness was acute arsenical poisoning, arsenic must have been taken into the body." Beyond that there is the evidence of Sir William Willcox—"I am confident that Martin's illness was acute arsenical poisoning." That is after he has listened to all the evidence that was given as to when Martin began to be ill, what he suffered from, what is the result of the analysis, and so on. That agrees with Dr. Spilsbury, and it agrees with Dr. Toogood, so that they all agree about that. Therefore, you try and come to a conclusion as to whether Martin really did suffer from arsenical poisoning. If he did, of course, that does not prove that the

defendant gave it to him. But then consider all the circumstances of his going to tea and what he had ; consider that the defendant had arsenic in his possession at that time ; according to his own evidence, he had white arsenic in his possession at that time. When he was arrested he had a little packet of it in his pocket.

Consider all that, and if you come to the conclusion that Martin did get with some food or another arsenic and suffered from arsenical poisoning, then ask yourselves, how did he get it ? Did someone give it to him ? If so, who—and where did he get it ? Then it is important to consider when all these symptoms developed and how they developed to some extent before he had any other meal than that which he had taken with the defendant . . . ask yourselves before you go any further with the case whether you are satisfied that the defendant did give that poison to Martin . . . if you come to the conclusion that he did try to poison Martin, then you can start with something which will be a guide to you, a help to you, as to what the man would do with the poison he had got, whether he would use it against a human being or not if he had what was considered a sufficient motive. If you do not make up your minds that he did administer poison to Martin, then that is out of the case as absolutely as if the name had never been mentioned in the course of these proceedings. . . .

Now I come to the question of Mrs. Armstrong's illness. She seems to have been an invalid, and one would think a tiresome invalid, too. She suffered from melancholia, and was given to what was called introspection ; always worrying, and thinking she had not done her part in that or this direction, so that one can imagine she would be somewhat tiresome to anybody who had to live with her.

The learned judge here reviewed in detail the conditions of Mrs. Armstrong's state of health up to the time of her being taken to the Asylum at Gloucester.

You heard the doctors on both sides describe the symptoms, and the doctors for the prosecution, Dr. Spilsbury, Sir William Willcox, and Dr. Hincks, are all of opinion that the condition before she went to the asylum was due to her having been poisoned with arsenic. Dr. Toogood and Dr. Ainslie and Dr. Speed came to the conclusion, they tell us, that it was autotoxin—that it was poison, but poison produced within the body of Mrs. Armstrong herself. . . . If you doubt that the defendant did attempt to poison his

wife before she went into the asylum, and have a reasonable doubt about it, then you must come to a consideration of the events of 1921 with a mind that is free from suspicion that he attempted to poison his wife towards the end of 1920.

Now, if we come to 1921 she returned home, and on January 22nd—exactly a month to a day before her death—she was pretty well, and for some little time she went about her ordinary duties, taught the children, dined downstairs, and took all her meals downstairs for a considerable time, and then she got ill. I shall find it necessary to read to you the account of her last illness, for it is very important that you should have in your minds exactly the course of things after she came home. She ultimately died on February 22nd, after getting worse and worse. . . .

The defence say a dose of arsenic was taken probably on February 16th, and that she took it herself purposely, intending to kill herself. They have given evidence about it, and the doctors called our attention to her condition. They cross-examined Dr. Hincks and the nurse, and so on. That is the affirmative case put for the defence. They put two cases, the affirmative and negative. They say first of all, "We will prove it affirmatively to you—we shall satisfy you that she committed suicide. We will call evidence that she must have taken such a dose about the 16th as killed her." On the other hand they say, "Suppose you are not satisfied that she committed suicide, then there is the negative case." There is the case that you may be in doubt as to who gave her the dose of poison that killed her, because they do not dispute that she did die on February 22nd at ten o'clock in the morning of arsenical poisoning ; and they say first, "We will prove she took it herself ; but if we fail to do that it does not follow that you should find the defendant guilty, but you may be still satisfied that she died by a dose, or many doses, not administered to her by the defendant." It is for that reason that I must read to you the evidence of her last days—the evidence of those who saw her and had to do with her during those days, and not the evidence of those who theorise either on the one side or the other. . . .

. . . If you look at the evidence of Miss Pearce she says this : "After the deceased returned from the asylum, one day she went up to the attic. She came down and asked whether if any one threw themselves out of that window they would break their back. She

told me then at the asylum she had tried to get out of the window, but it was fastened." Now that is a general question. She went up to the attic, and came down again. She did not throw herself out of the window. She asked the nurse whether if she threw herself out of the window it would break her back, and said that when she tried to get out of the window at the asylum it was fastened. What would happen to a person in any asylum who wanted to escape? Would not they try to get out of the window, and if the window were fastened would not they give it up? In any asylum is not that exactly what you would expect? People in any asylum do not necessarily want to stay there. The people who keep those asylums want to keep their patients in, and is not it therefore natural if she wanted to get away from the asylum that she should attempt to get out of the window? But she found it was fastened, and there is no suggestion that she attempted to kill herself. She made that observation, according to Miss Pearce, about what would happen if any one were to get out of the window.

The next mention of it appears in the evidence of Mr. Chevalier: "I warned the defendant that she might attempt suicide, and said she was suffering from delusions." It is true that a person suffering from delusions may attempt suicide. He does not say he had any definite fact to lead him to suppose she would—not that she would, but might. . . . That was in 1920, and the suggestion is she committed suicide somewhere about February 16th, 1921. That is a long time to pass. . . .

The judge proceeded to examine the evidence of Nurse Kinsey. . . . "On the 10th February (twelve days before her death) I saw her. The deep discoloration of her skin surprised me, and she was very weak. She complained of severe pains in the stomach. She was lying on the sofa in the drawing-room. The defendant was with her, and she was sometimes alone." That is on February 10th, and there is no suggestion that she took poison to kill herself till the 16th. . . . "The defendant sometimes slept in her room and sometimes in a room opposite. On February 10th her skin looked jaundiced, and she was very pale round the mouth. She told me she was very sick and suffering great pain." That is very important—that is on February 10th when she said she was very sick and suffering great pain, and there is no suggestion that she made an attempt to poison herself then. . . .

Then Nurse Allen is called, and she said: "On January 27th, 1921, I arrived at Mayfield in the evening, and took charge of the deceased until her death . . . Until February 22nd I believe Dr. Hincks came every day. During the last four days of her life I used to feed the deceased." That is very important—the 18th, 19th, 20th and 21st. "She was in bed and so ill that she could not feed herself. She did not to my knowledge get out of bed after February 13th." She was wrong about that, if you take it that Mrs. Price saw her on the verandah on the 14th, but Nurse Allen's opinion is that she did not get out of bed after the 13th. "The deceased could not move her legs about much—they seemed paralyzed rather. The deceased was conscious on February 22nd, and died at 10 a.m. About 4 a.m. that day she said: 'I am not going to die, nurse, am I, because I have everything to live for—my children and my husband'." Those are the exact words she used, but the suggestion is that she took a dose of arsenic on February 16th meaning to kill herself. . . . If you believe she said that (and it is not questioned that she said it)—do you believe that woman had already, with intent to kill herself, taken a fatal does of arsenic? Let alone the question of whether she could have got it if she wished, or put it into her mouth if she wished—do you think the use of those words six hours before her death reconcilable with the theory that she committed suicide? (The learned judge continued to read notes of Nurse Allen's evidence.) "I have been relieved by the defendant, and have found him alone with the deceased on my return. I had been away twenty minutes or half an hour." That is important as bearing on the question of whether he had the opportunity of giving her arsenic or trying to do so. . . . "At the foot of the deceased's bed, on the wall over the fireplace, there was a medicine chest"—but I need not read anything about this, because it is not suggested that she could get out of bed and help herself from it.

. . . Nurse Allen said, "After Sunday, January 27th, the deceased was very weak, and if she had tried to get out of bed she could not have done it. . . . On February 22nd at 8 a.m., the deceased was quite conscious. The defendant came in and kissed her. They had some conversation which I did not hear." That was about four hours after she said to the nurse, "You do not think I am dying, do you?" I have everything to live for—my children and

my husband." Dr. Hincks arrived at 9.30 in the morning, and the defendant came with him to the bedside, and the deceased died exactly at ten in the morning. "I next saw the defendant about 1 p.m. I was in the deceased's room after her death till about 1 pm. I did not see the defendant before 1 p.m. At 9.30 a.m. the deceased was unconscious."

Then she is re-examined and she says, "After Sunday, February 13th, the deceased never came downstairs, but took all her meals in the bedroom and had nothing solid but the calf's-foot jelly. The deceased used to take kettle broth and Benger's food the last four days, because she was very anxious to get better." That would be the 18th, 19th, 20th and 21st. The suggestion of the defence is that she took a fatal dose of poison before that—on the 16th about ; and here is that woman, who they suggest committed suicide, taking Benger's food and soda and milk during the last four days, because she was very anxious to get better. The prosecution on that say it is incredible that a woman who was anxious to get better was bent on suicide and two days before took a fatal dose of arsenic. . . .

The learned judge proceeded to read the evidence of Dr. Hincks.

"After she came back from the asylum I saw no return of the delusions, and her great anxiety always was to get better." Yet it is suggested that it was at that time she made up her mind to commit suicide, and carried it into effect in a manner which we have simply been left to guess at. . . . "I doubt whether deceased ever left her bed on February 16th. After the 18th she certainly never did ; I mean for any purpose whatever. I do not think she could move her legs at all. On the 16th or 17th she could not hold up a cup to her lips, and could not use her arms, and could not grip anything firmly."

Do notice this, gentlemen. The defence is saying on the 16th she helped herself to a fatal dose of arsenic, six days before her death. In order to show the importance of this, you heard cited from a book the case of the Duc de Praslin, who is said to have taken arsenic in 1846 and to have committed suicide, and to have lived six days after he took the arsenic. Calculating back from her death, which was on the 22nd, six days, you get to the 16th. This is Dr. Hincks. This is not theory ; this is not calling eminent doctors to say :

"I have heard the evidence and I have read Witthaus's book." This is the doctor who really attended her, and everybody, the doctors honestly said, yes, he is a perfectly competent doctor, as good as the others, a local doctor; of course, the others are specialists, they know as much about arsenic as anybody can possibly know at present; but Dr. Hincks, as everybody agrees, is a perfectly competent doctor, and he is asked this, and what he says about her on the day when she is supposed to have got up and to have gone somewhere and got poison and taken it is, "On the 16th or 17th she could not hold a cup to her lips." Is it suggested that she said, "I want to poison myself; I will have a cup?" No. "She could not hold a cup to her lips, and she could not use her arms, she could not grip anything perfectly. Certainly she could not have fed herself at all during the last four days of her life. . . ." Dr. Hincks says: "At the time of her death I had formed the opinion that the gastritis was due to toxæmia, that is, a collection of poisons in the system due to inefficient action of the kidneys. Kidney disease was secondary to the heart disease, which I then considered was rheumatic in origin. Toxæmia is poison in the blood. Knowing that arsenic was found in her body, my opinion now is that her illness before she went into the asylum was caused by arsenical poisoning. There she had a remission of her symptoms; and her last illness after her return was caused by a fresh dose of arsenic, not all taken on one day." That is the opinion of the doctor who has attended her for more than a year, the doctor who was with her to the last. He did not put in his certificate that she died of arsenical poisoning; but he did put in all these things—nephritis and all the rest, which meant she died of a poison, toxæmia, and at that time he was of opinion that the poison was caused by the disease. . . . He says: "I think the paralytic symptoms were due to arsenical poisoning, to the taking of a large dose of arsenic about February 3rd. That is my opinion, but it is a guess. The latter symptoms of acute gastritis were due to continued large doses of arsenic, such as a grain administered from time to time; and the fatal termination was due to an absolutely poisonous dose, anything over 2 grains.

. . . Then there is a letter from the asylum; and then he (Dr. Hincks) says: "On the 25th I first saw the deceased after her return from the asylum; she was perfectly able to walk; she was physically pretty fit, mentally much improved. On February 11th

the high-stepping had returned, she was then suffering from multiple neuritis, of which she had no symptoms on January 25th. On February 16th the deceased had very intense pain in the abdomen. It is absurd to suggest that it was the result of vomiting. After her return from the asylum I never had a suspicion of suicide. She did not believe in doctors; she was very anxious to get well; but I always felt that she did not think I knew what was the matter with her." She had some sort of feeling that Dr. Hincks did not understand her. We now know that he did not suspect arsenical poisoning; and if she thought that he did not understand what was the matter with her she was quite right—he did not.

That, gentlemen, concludes the evidence of those who actually saw Mrs. Armstrong after she came back from the asylum, except the evidence of the defendant himself. Perhaps I had better read what the defendant himself said. I am not going to read the early part of it. I am dealing with the last illness.

That is the evidence of those who were about with her during the last days of her illness. There is the evidence of her state of mind; there is the evidence of her wishing to live; there is the evidence of what she was able to do. The importance of all this is, that you must ask yourselves (it is one of the points raised), are you satisfied that she committed suicide? When I read the rest of the doctor's evidence for the other part of the case, there may come in statements which will have a bearing upon that. But if you come to the conclusion that she did commit suicide, then there is nothing upon which you can possibly convict the prisoner; he is as innocent as you or I. But if you do not come to the conclusion that he is, you must consider the rest of the case, and you must now ask yourselves, on that evidence that I have just read to you, do you honestly believe, is it credible, that that woman, being in the condition in which she was, got up with the intention of taking a fatal dose of arsenic, and that she went and got it? What evidence is there that at that time she intended to commit suicide, or ever wished to do it; what evidence is there that she got up and went to any place where there was arsenic? Where was it? If it is suggested that she took arsenic and committed suicide, where did she get it from? The defendant

had had arsenic about the house for years for making weed-killer; and he says that she knew there was arsenic in the cupboard in the study. But if she did, the arsenic in the cupboard in the study was the grey arsenic, so far as we know, the arsenic with charcoal—there is no harm in the charcoal.

SIR H. CURTIS BENNETT: The evidence is that at that time white and coloured were both in the cupboard.

MR. JUSTICE DARLING: At that time?

SIR H. CURTIS BENNETT: Yes, from January 11th.

MR. JUSTICE DARLING: A month and five days before February 16th. We now have the evidence given by the defendant, that there was white arsenic in the bureau.

SIR H. CURTIS BENNETT: It was not in the bureau till May; in the cupboard.

MR. JUSTICE DARLING: In the cupboard in the study in which the bureau was. In the cupboard, if I am right, there was grey arsenic and white arsenic. If it is suggested that she committed suicide by taking either the one or the other, either the grey or the white, which did she take, where did she take it from, when did she take it? At all events it was downstairs. There is no evidence that there was any of it upstairs; and if you were asked to find a verdict as to whether that woman committed suicide or not, on what evidence could you find that she did go and get a dose of arsenic, either grey or white, and take it in order to commit suicide? That is one part of the defence. They set up that before you as an affirmative, and they ask you to come to that conclusion, and if they can make out that, if you come to that conclusion, it is perfectly plain, as I said just now, the defendant is no more guilty than you or I.

But suppose you do not come to that conclusion, the prosecution have still to satisfy you that it was the defendant who poisoned his wife. If you come to the conclusion that she did not do it herself, that does not prove that he did it; somebody else may have done it. Let us see what is the evidence as to that. It depends on this. The doctors for the defence say that at the last there was taken a great dose of arsenic. Up to the time when that was taken there was a poisoning not due to arsenic, but to toxæmia, as going to show you that she died of a dose of arsenic which could not have been given, as the prosecution suggest, in small doses by the defendant, but given in one large dose by herself. Since the defence agree that she died

of a dose of arsenic, they say that she died of a large dose taken about the 16th, and that she was not suffering from arsenical poisoning before that date.

Now we come to the contest between Dr. Spilsbury and Sir William Willcox on the one hand, and Dr. Toogood and Dr. Ainslie and Dr. Speed on the other. First of all, look at the evidence of Dr. Spilsbury, because he really saw more of this case than any other doctor except Dr. Hincks. Dr. Spilsbury never saw her alive; he was called in for the post-mortem, and Dr. Ainslie was present representing the defendant, and saw what was done, so he saw then the condition of things just as Dr. Spilsbury did, although Dr. Spilsbury conducted the post-mortem. . . . I do not think I need go into this minutely because the defence agree that she died of arsenical poisoning. . . .

Dr. Spilsbury said: "I know the result of Mr. Webster's examination and analysis; from the amount of arsenic present in the large and small intestines, it is clear that a large dose, possibly a fatal dose, must have been taken within twenty-four hours of death." That is most important. If he is right about that, the whole theory of the defence is impossible as to her taking arsenic and killing herself, because for more than twenty-four hours before her death, for a good long time she could not move hand or foot, she was lying at the point of death. Dr. Spilsbury says: "From the amount of arsenic present in the large and small intestines, it is clear that a large dose, a possible fatal dose, must have been taken within twenty-four hours of her death, and from the amount of arsenic found in the liver, over 2 grains, and from the disease of the liver, as I found it, it is clear that arsenic must have been given in a number of large doses extending over a period of several days, probably a week immediately before death." That is the opinion of Dr. Spilsbury. If that is true, if he is right in that, it is perfectly impossible, perfectly impossible that a dose can have been taken by her, one large dose, on or about February 16th. According to him, there must have been several doses, they must have been extended over a period of several days immediately preceding death.

Let us consider who these doctors are. It is for you, you have been told you are the judges of this case, not I. Do you remember Dr. Spilsbury, do you remember how he stood and the way in which he gave evidence? Do you remember or do you not remember

how, if there were any qualifications to be made which told in favour of the defence, he always gave it without being asked for it? Did you ever see a witness who more thoroughly satisfied you that he was absolutely impartial, absolutely fair, absolutely indifferent as to whether his evidence told for the one side or the other, when he was giving evidence-in-chief or when he was being cross-examined? You should recollect and consider the demeanour of every witness in every case that you try; it is most important . . . As to what he said, you will judge whether you agree with it, whether you think it well founded or do not. He was asked about Mr. Martin's case, and he gave his opinion about that. . . . Then he was cross-examined . . . as to the post-mortem examination.

The learned judge recounted here Dr. Spilsbury's views of cases in which a cyst of arsenic was found in the stomach and the process of poisoning held up. "If there was vomiting at first, and then cessation, then recurrence, then death, I should expect the presence of Bright's disease." That was not so with her, according to him. "I dare say it is conceivable that under special conditions a person might live fourteen days after a fatal dose."

. . . I do not think the case put for the defence explains the state of things existing in Mrs. Armstrong, in whom there was no pre-existing disease. Mr. Webster found over 2 grains of arsenic in Mrs. Armstrong's liver. That shows that the arsenic she took was not encysted. Encysted means enclosed, as in a box. . . .

Then came Mr. Webster. He is an analyst. He dealt first with Mr. Martin's case. He said he had examined many articles sent to him. Exhibit No. 32 is a packet found on the defendant, and contains 3 to 3¼ grains of white arsenic. No. 53 packet contains nearly 2 ounces. That was the packet in the bureau.

Then they call Sir William Willcox . . . He goes into the question of early rheumatism. I need not trouble about that. I will begin with January, 1921. Sir William Willcox, it is almost unnecessary to say—and it is said by the doctors for the defence—is a man who has made a study of this matter, and is as well qualified as anybody in the United Kingdom to give an authoritative opinion. . . . He says: "On January 23rd, judging from the evidence on the return of Mrs. Armstrong from the asylum, I have no doubt the neuritis was then peripheral. It is very difficult to diagnose arsenical poisoning during life. On February 21st there

was the high-steppage. That is a most important symptom in peripheral neuritis. Mrs. Armstrong complained that she had springs under her feet, and it is common. On February 15th there was vomiting. Those symptoms were undoubtedly due to poisoning, and having regard to the peripheral neuritis, undoubtedly due to arsenical poisoning." Then he explained all that, and said: "The arsenic was shown to be taken a few days before 11th February to produce those symptoms. As to the 16th February, the symptoms of that are those of arsenic taken a few hours before. I consider the vomiting and diarrhœa indicate further the taking of a large dose of arsenic within a few hours of the onset of the symptoms of the 16th." He comes to the post-mortem examination now. . . . "I have no doubt that 2 grains or more of arsenic—possibly a fatal dose—was taken within twenty-four hours of death. I have no doubt about it at all." If he is right—if 2 grains or more of arsenic were taken twenty-four hours before death, then the theory that Mrs. Armstrong took it herself is impossible. "I agree that arsenic taken through the mouth would take ten hours to twelve hours for liquid to get to the cæcum. I have no doubt as to a large dose having been taken within twenty-four hours of death. The arsenic in the liver indicates that a good deal of arsenic had been appropriated during life, and that the kidneys must have been damaged by the poison. On the symptoms of August 20th and 21st it would be very unsafe to form any conclusion against the defendant, as the deceased was given arsenic medicinally." Then he explained how it got into the hair and nails and then grows out. "During the last few days of Mrs. Armstrong's life, seeing that she had peripheral neuritis on February 11th, her legs must have been getting weaker and practically paralyzed. The certificate of Dr. Hincks shows death to be due to natural causes. That is all one could give. In this case the murmur and condition of the heart undoubtedly were due to arsenical poisoning—some in August and some in February—there must have been several taken from February 16th to February 22nd. I think this puts the theory of suicide out of Court." That is the deliberate opinion of Sir William Willcox. "I have no doubt she had a large dose of arsenic within twenty-four hours of her death. I say the deceased could not herself have taken such a dose within the last four or five days."

Then he goes into Mr. Martin's evidence, and it was in answer

to the foreman of the jury, I think, that he said arsenic mixed with food was quite tasteless.

Then he is cross-examined, and he says, "One-twelfth of a grain a day may be taken if you work up to it, and a dose of 15 grains might be taken without causing death if vomiting at once ensued. There is more danger in repeated small doses than in one large dose." He then goes on to auto-intoxication. "Auto-intoxication might set up rheumatism, but rheumatism could not set up auto-intoxication. Mrs. Armstrong had chronic rheumatism, which may have been caused by auto-intoxication. I do not think the rheumatism from which Mrs. Armstrong suffered was due to arsenic in August. Up to August there is no evidence that I have heard of arsenical poisoning. If arsenic were given in large doses you generally get vomiting, but not always. There is no evidence of vomiting before August 22nd, 1920. The worst case of peripheral neuritis I know of came on in one to three weeks. It is rather uncertain after one dose, and more often follows several doses. On January 22nd, 1921, and afterwards she might have taken a large dose some days before February 11th. Arsenic might have been taken before August 22nd, 1920, in doses insufficient to cause vomiting. I suggest some arsenic had been taken before February 11th, 1921—probably in small doses. I base that on Dr. Hinck's evidence as to her state on that day. On February 16th, 1921, there was very severe vomiting. I agree that a person may take a large dose of arsenic and have sickness, and gradually sink and die. A person might, I agree, on February 16th take arsenic, or on the 17th, and die on the 22nd. I should expect to find most of it had been absorbed in the liver and the stomach; the liver would be practically empty. I say there must have been a dose within twenty-four hours before death, because of the finding of arsenic in the small intestines and ascending colon, and the vomiting and diarrhœa within the last twenty-four hours." And he referred to the evidence of Nurse Allen.

Nurse Lloyd's evidence was next reviewed by his Lordship.

Now I come to the evidence of Dr. Toogood. He told us his qualifications, and he said he had made 7,000 post-mortem examinations, and had had much experience of various cases of arsenical poisoning. As to the period from the 15th to the 20th, he said: "In my opinion Mrs. Armstrong was suffering from auto-intoxication

accompanied by chronic indigestion and accompanied by gall-stones; and there was evidence of a dilated heart with a murmur. These are frequent accompaniments of auto-intoxication. In October she was suffering from physical disturbances which would be likely to point to albumen. Before removal to the asylum there were symptoms consistent with arsenical poisoning and other causes also. . . . Her depression was a very grave matter. The loss of power in her arms and legs in the asylum was I believe functional weakness. Arsenic in October would increase any definite neuritis symptoms. The deceased in the asylum had not peripheral neuritis. The evidence of Nurse Kinsey shows that the deceased was still suffering from functional weakness at the asylum. On February 11th, from the report of Dr. Hincks, the deceased was then suffering from high-steppage neuritis. Up to February 16th, 1921, there is no evidence of anything like arsenical poisoning only. Having heard the whole of the evidence, I say death was caused by arsenic taken on February 16th, and none before. I say it was a large dose. In my view the arsenic become impacted. It is impossible to tell the state at the time of death in which she was on February 16th from the post-mortem examination and the symptoms during life."

Then he is cross-examined, and he says he would place Sir William Willcox as the highest authority, and with him Dr. Spilsbury and Mr. Webster, the analyst. "As to neuritis, when the deceased was in the asylum, it may have been that arsenic was administered to the deceased as medicine. That would take some time to pass away. The appearance of albumen on August 18th, and its passing away on the 28th, is consistent with arsenical poisoning before August 18th. The high-stepping and the absence of knee jerk are due to functional disease." He deals with Mr. Martin's case and gall-stones and auto-intoxication. He says: "In my opinion the arsenic of which Mrs. Armstrong died was given in one big dose."

Dr. Ainslie is called, and he said he was present at the post-mortem examination. The joints were not opened. There is then the question of neuritis. He says: "Mrs. Armstrong, when at the asylum, was suffering from auto-intoxication, which produced the whole of the symptoms at that time. Having heard all the evidence, I am perfectly satisfied that the deceased died of arsenical poisoning about February 16th, 1921. I cannot give it more precisely

because of the hazy evidence of the nurse and Dr. Hincks. In my opinion, that is the first dose of arsenic she ever had except that given in the asylum, and the last one." This is a very confident opinion, by one who never saw the deceased during her life, as against Dr. Hincks, who had seen her during life.

SIR H. CURTIS BENNETT: I only wish to say, my lord, there was a disagreement between Nurse Allen and Dr. Hincks. Dr. Hincks said it was the 16th and Nurse Allen said it was the 17th.

MR. JUSTICE DARLING: At the post-mortem examination it was said that, had there been any marked signs of rheumatoid-arthritis, undoubtedly the joints would have been opened. . . . Then Dr. Ainslie is re-examined, and he referred to Blythe on Poisons at page 566, and he said he meant the case of the Duc de Praslin, who died on the sixth day after taking poison. That was in 1846. What the exact conditions of the Duc de Praslin were we do not know, except that he took arsenic and died six days later; but Sir William Willcox and Dr. Spilsbury both say you may live more than six days after taking a dose of arsenic; so that we come to this, that Mrs. Armstrong might have died on February 22nd after a dose taken on the 16th. That is all. Dr. Speed was called, and said he had read the report of the trial, and if she was suffering from arsenical poisoning, if she was taken to the asylum, it would increase the symptoms. As to Mr. Martin, he agreed with Drs. Toogood and Ainslie. He said he did not hear Sir William Willcox examined. "During life the diagnosis of arsenical poisoning is difficult. During the symptoms on February 16th tenderness across the course of the nerves is a *sine qua non* where neuritis is due to arsenical poisoning."

Now you see there is the evidence of those doctors who were called for the defence, who, however the arsenic was taken, are confident that it was taken on the 16th or early on February 17th; that it was one large dose, and that she never had any other; that that was the first and last dose that she had. . . . What do you think? There is the evidence of Dr. Spilsbury, who actually made the post-mortem examination; and he tells you what he found, and he says he is certain from what he saw himself that arsenic was taken within twenty-four hours of death. He is not merely theorising; that is from what he saw. There is Sir William Willcox, who is admitted to be as great an authority as any on the subject, and he says he is satisfied there must have been this dose within

twenty-four hours of death ; and he used the remarkable expression that what was found (and he described it in his opinion as an expert on arsenical poisoning) put the theory of suicide out of court. Those were his words. Now, as I have said to you, if the theory of suicide is absolutely upset, that does not of itself prove the defendant to be guilty ; but if you consider that theory is demolished, it being certain that she died of arsenical poisoning, who gave it to her? I have said there is no evidence of anybody that she ever did take any arsenic herself, knowing what it was. A great deal of evidence has been given to show she could not have got at it if she had wished ; and if you come to the conclusion that she did not take it—that this woman did not destroy herself—then you must look and see who did give her this stuff of which she undoubtedly died. It is suggested that the defendant did so. Is there any evidence as to any one in this case having any arsenic anywhere except the defendant? None. He had had arsenic for weed-killing, and he had mixed weed-killer for many years for use. On January 11th, he bought of Mr. Davies white arsenic, and it has been produced, and I will read you what he says about it. This is his own evidence. "On January 11th, I bought a quarter of a pound of arsenic of Mr. Davies. Hird served me. I did not use the arsenic. It was wrapped in white paper and labelled. On reaching home I, having some of the 1919 purchase unused, I forgot, and put my new purchase on the top of the caustic soda tin in the cupboard. My wife died and I went abroad, and on April 28th I returned. In May I went up to the cupboard after May 13th. There I saw the packet of white arsenic. There was no string round it. It appeared as if it had been opened. I did not weigh it. I opened it for the first time and realized it was white. Any one going to the cupboard could see it readily. My wife knew I was in the habit of using arsenic for the garden. She saw me mix it in 1919. I put the coloured arsenic at the bottom of the cupboard. In May I put the packet containing the white arsenic in a small drawer at the bottom of the centre cupboard of the bureau. On June 21st I intended to burn the arsenic, which was then wrapped in the two original papers in Davies's shop. I divided the packet roughly into two parts, and then divided one in the outside piece of paper, leaving the other inside. I wrapped the packet in a piece of blue draft and put it back in the same little drawer I had taken it from. I never took it out again. I saw the packet produced. I

saw the little drawer. All I remember when I saw it is I pulled the drawer open between the two pillars. The pillars were evidently not firm, and if any one asked me if it could be pulled right out, it was very difficult to get it out unless you held the pillars in place." It seems the drawer did catch and did not run smoothly. He says : 'I put it there, and never took it out again." And then, during the adjournment, the defendant placed the packet in the drawer of the bureau as he put it in in May, and the jury and counsel and myself then inspected the packet. Is that the same drawer where the old luggage labels and foreign postage stamps were ? As to the other half, we know now it was put in the cupboard and remained there till taken out by Mr. Matthews. "As to the other half-packet, I made it up into small packets, about twenty of them about the size of exhibit No. 32. The arsenic was to be mixed with caustic soda. As to the small packet, I had the catalogue produced containing advertisements of 'Killweed.' It gave me the idea that if I put poison to the roots of the dandelions it would have a good effect ; and I put the little packet of arsenic I made up to the roots of the dandelions, and it had a good effect. I put the small packet of arsenic and it killed them and spared the surrounding grass. I believe I used up all the packet, and I used that coat (produced). I used it when in the garden, and was wearing it when arrested in my office in Hay. That was on Saturday. Letters were in that jacket pocket. The night before I turned them out of the pocket of the jacket I was wearing and put them into the jacket in which I was arrested, together with the letters I received that morning. The police were with me till four in the afternoon. I made a statement early, and what I said about the arsenic was obviously incorrect. I mixed up the 1919 purchase of arsenic with the 1921—the white purchase. When I said that was the only arsenic I had, I had quite forgotten the arsenic in the bureau."

Now let us see what he really says. He made this statement. He signed it, and he put at the bottom "I make this statement quite voluntarily and without being questioned." As magistrates' clerk he would necessarily know all about making a statement to the police, and this is what he says he stated. "In January, 1921, I made a further purchase of a quarter of a pound of arsenic at Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself. It was not a success,

which explains why I have some left at my house. When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on. When I spoke of it being the only arsenic I had, I had quite forgotten the arsenic in the bureau that relates to this." After the statement he said this: "The cupboard where I kept the arsenic at my house (not in the bureau) contains boot-cleaning materials, and is unlocked. Nobody in the house, as far as I know, is aware of the presence of arsenic in the house. This arsenic I speak of is the only poison in my possession anywhere excepting, of course, any contained in medicine. I have a medicine chest in my bedroom."

A day or two ago there was produced about 2 ounces of arsenic which was in the bureau. He had given no account whatever of white arsenic to the police—not a bit. We must think presently why that arsenic never was mentioned. I will go on. He said: "The next day—January 1st this year—I saw my solicitor, Mr. Matthews, and made a communication to him. In my office the police took my coat and put the letters from my pocket in a brown paper parcel. I was not then aware that there was arsenic in my pocket. Manuscripts and letters I took from my pocket, and there were two purely business letters and telegrams. I wished to look at the business letters then in my pocket, and I did so. For the first time since June, when I turned over the letters I saw that small packet (exhibit No. 32). It lay apart in the flap of the envelope. There was a recipe for making weed-killer." That is exhibit No. 64. "I told Mr. Crutchet where to find exhibit No. 64 immediately after making the statement."

Now he dealt, of course, with the whole case—his wife's will and so on, and that I am not going into; but with regard to the history of arsenic he says: "In June, 1921, Miss Pearce was with me in my study at 'Mayfield'. I then had a 4-ounce packet of white arsenic. I there think was a string round it." The jury saw it in the drawer of the bureau yesterday. "I had taken it from the cupboard in the study about the middle of May, 1921; and then I put it into the bureau and divided it into two portions, and of one I made about twenty little packets in the study at 'Mayfield'. I divided it with my penknife, and used all of that except the one found on me." I do not know if you believe that. He took it out and on the same evening he used them all. If you want to poison dandelions, do you

want twenty little packets? He says he thought he had poisoned the whole twenty dandelions. As a matter of fact, he had. He used the whole of it and made separate holes to poison those dandelions, and says it was more convenient to do that. This was done in June —the last of that 2-ounce packet—and he mixed it with boiling water and caustic soda. So one packet of 2 ounces had been consumed, and the other packet of 2 ounces remained in the bureau. You have seen the little packet (exhibit No. 32), and you saw the little packet in the bureau in the waiting-room. "I had made my statement one hour before that. It is as accurate as possible, and was given to the police for their assistance." And the statement was read to the defendant—the one I read to you just now. "What I said—that I had used the arsenic I thought in 1921—is wrong. I had mixed it up with the other. I made the statement voluntarily. Then I was arrested, and later on I saw the little packet and remembered what I had stated—that it was wrong and I decided to say nothing further till I had seen my solicitor. Before the police left my office I remembered I should have told them where to find the arsenic at 'Mayfield'. I realized it would require explanation. That packet in the bureau was never referred to. I knew before leaving my office after arrest that the statement I had made about the arsenic was inaccurate, and decided to leave the matter where it was." Then he was re-examined and said: "On December 31st, 1921, I had no idea the police were coming. I volunteered to make a statement. I believed it to be true when I made it. The arrest was a great shock." Then he speaks about his business letters and says: "Some were in a brown paper bundle, and I understood I had leave to look it through. Amongst them I saw the little packet (exhibit No. 32). The police did not tell me they were going to 'Mayfield' to search until just before I was taken to the cells. Then I remembered the 2 ounces of white arsenic. Before the magistrate I heard Mr. Matthews press counsel for the prosecution for a list of things found by the police at 'Mayfield'. It was a long time before we got it; the account I gave the police as to 1921 was as to what happened as to the 1919 arsenic. I put the white arsenic in the study in January, 1921, and never touched it again until May, 1921. The quarter of a pound cost me 7½d."

The question is, what light do you think this throws upon this case? You have now the two sides before you. On the one side the

prosecution say Mrs. Armstrong died of arsenical poisoning; the defence say: "True, she died on February 22nd." The prosecution say that it was the result of several doses taken after she returned from the asylum in January, and they say the course of the illness shows it. . . . The defence say she never had a single dose of arsenic until February 16th . . . and she took it herself intending to kill herself. If you believe that she did take it herself, intending to kill herself or not, why, obviously, he did not give it to her, and he is not guilty. But the prosecution say . . . the evidence of Dr. Hincks and the nurse . . . doesn't agree with the taking of only one dose. . . . It is for you to consider whether she could possibly have gone to get it, even if she had known where it was, and supposing then, according to this evidence of Mr. Matthews, the white arsenic to have been in the cupboard in the study. Well, now, you make up your minds, if you can, whether she did take it herself or whether she did not. If she did, the prisoner is absolutely innocent.

But now, suppose you come to the conclusion that she did not take it herself, where are you left? Who, according to any evidence here, had arsenic? No one but the prisoner. Did anybody know that there was any in the house but himself? He says no. At the time he made that statement he said nobody knew there was any in the house. He said it himself. When he made that statement there was some in the bureau. Why did not he mention it? . . . Why did not he mention the white? At the time he made that statement the little parcel in his pocket had not been found. At the time he made that statement he had no reason to suppose that the police would know anything about the white arsenic; but before he went out of that office he realized that he had got the white arsenic in his pocket; and he says not till that moment did he ever remember that he had bought white arsenic of Davies and had put it in the cupboard, and then in the bureau. He had forgotten that. After what I have read to you, do you believe that? If you do not, if you think that in the witness-box he has told you a deliberate falsehood about that, what do you think of his evidence, any of it? . . . . Do you believe he could have forgotten that white arsenic? . . . By this time the police were inquiring into the case of Martin. Wouldn't it have been a very bad thing if he had to state to the police: "Not only is there that grey stuff in the cup-

board, but in the bureau in my study in a little drawer"(you know the drawer that pulls out with such difficulty)," in that bureau if you look you will find 2 ounces of white arsenic." Well, he says he forgot it. But what had he done with that white arsenic ? Had he done anything with any of the arsenic calculated to impress the position of it on his mind as to the use he had made of the white arsenic ? He had had 4 ounces of it, had divided it into two packets, had used up one packet of it in a most interesting experiment with a glass, and for some reason or another it had not been exactly what he desired, and he poured it all down the lavatory. Do you think he forgot that when he was saying to the police : "I will explain everything to you, I will make a voluntary statement" ? Do you think he forgot that ? Then there is the rest. There are still 2 ounces left, and he remembered afterwards so precisely the month and everything, the bit of string and everything about it ; how he took it from the cupboard and put it in the bureau and left it ; how he made up some arsenic.

He was able to tell you in detail what he had done with all the white arsenic ; he had taken another portion of it and had made up twenty little packets just like exhibit No. 32 (exhibit No. 32 brought it all back to his mind, according to him), and had then gone out all at once on the same evening and had taken an old file and had pierced a hole at the root of twenty dandelions, as he thought, and had given them those doses ; and he had clean forgotten it—according to him. That is his statement. Do you believe that he had forgotten the white arsenic that he bought at Davies's ? Do you believe that he had forgotten what he did with some of it ? Do you believe that he had forgotten that he had made up the twenty little packets, and do you believe that it never came into his mind until he saw the little packet which had been tumbled out of his pocket among the envelopes ? That is his case ; until he saw the little packet, that he had clean forgotten all about that white arsenic. The case of the prosecution is that he made that statement, which is only half the truth, with the intent to deceive the police. At that time he did not know whether the police would find white arsenic or whether they would not. He realized, the moment he saw the little packet, that it was a very awkward thing. So, knowing that his statement was false, because it was not all the truth and omitted a most important matter—knowing that his statement

was false, what did he do? He made up his mind that he would not tell the police any more about it. That is what he said. He was asked: "Does it occur to you that if you had confessed to the police that you had white arsenic in your possession it would have been a very bad point against you, it was one which would have to be explained; you see that?—*A*. Yes, I quite see the point. *Q*. Now when you saw the little packet and realized that you had got white arsenic in your pocket, did you realize that that was just a fatal dose of arsenic, not for a dandelion, but for a human being as well? *A*. I did not realize it at all. *Q*. But if every one of the little packets you made up was the same as the one found in your pocket, every one of them contained a fatal dose of arsenic for a human being; you realize that from the evidence? *A*. Yes, I do now, but I did not at the time. . . . "

Now we know what was the cause. We know that, having made that statement, which did not contain the whole of the truth, being well aware that there was in the bureau 2 ounces of white arsenic, the same sort of stuff as was in that little packet, he made up his mind that he had better keep his mouth shut. What did he do? We know now that he sent for Mr. Matthews, the solicitor, and told Mr. Matthews that there was a little packet in the drawer of the bureau, and Mr. Matthews defending him, did what was perfectly right; he went to "Mayfield" and put his hand in the drawer, and he did not find it. We cannot doubt that he told the defendant so. The police had not found it; they never produced it; we know they never found it. The defence badly wanted to know whether the police had found it. It would have been a splendid thing if they had never found it. It put Mr. Matthews in a very great difficulty; and so Mr. Matthews consulted Mr. Bosanquet on January 1st, because this had put Mr. Matthews in a very great difficulty as a professional man of honour. He had been told, the defendant must have informed him, that this statement (of the prisoner) was untrue; the moment the statement was seen it would be known it was not true. Mr. Matthews wanted to know what was his position; because if a person has committed a felony, and you know that he has committed a felony, and you afterwards do certain things to help him to escape from justice, you are an accessory after the fact. To any lawyer it would very soon occur: "Well, how far am I justified in going in this matter; what am I to do?" There are

certain things you may do, and there are certain things you may not. Mr. Matthews, more by accident than anything else, afterwards did find that there was arsenic in the drawer, and he put it back. He did perfectly right. He got Dr. Ainsley to come and to see that he found it in the drawer where the defendant told him it would be. Then he got it; then he knew that the defendant was possessed of white arsenic, of which he had never told the police; and the question was, what was to be done? Mr. Matthews and any lawyer would know that he might not destroy evidence; he must keep it. He is perfectly justified, if he can, in concealing it from the prosecution; and they did conceal it from the prosecution until last Thursday. That is a matter of tactics, whether they should conceal it or produce it. It was a matter of tactics whether they should conceal it always or produce it here at the Assizes. You have heard the comments of Sir Henry Curtis Bennett, who says what a good thing it was to produce it. You have heard the comments of the Attorney-General as to what sort of bearing it has upon the whole case, upon the conduct of the man who is charged, who said he had forgotten the existence of the 2 ounces of arsenic and the dealing with the dandelions, and all the rest of it, until the little packet was discovered; and the Attorney-General asks you to say whether you believe him, whether you think the man could have forgotten something so important as that. And then, when he remembered it, what was his conduct? He thought the best thing he could do, in his own language, was to "keep his mouth shut," and then take legal advice as to what should be done if he got possession of the thing. He did get possession of it; and when he got possession of it they came to the conclusion that the best thing was not to let the prosecution know anything about it when the case was before the magistrate, keep them in the dark as long as ever they could, and produce it here at the Assizes, when it was an embarrassment to the prosecution, with an explanation, which (as Sir Henry Curtis Bennett has said), did great credit to the defendant. It is for you to judge.

Practically there is the case. He is charged with murder by administering arsenic to his wife. She had an administration of arsenic: and if you are satisfied beyond doubt that he gave it to her intending to kill her, he is guilty. He had the opportunity to give it to her, you can see on the evidence. The question is whether he did give it. When I say he had the opportunity, there is evidence

that he was alone with her again and again. You can think for yourself how little it means to put some arsenic which you have got into an invalid's food, how easy it is to do it, especially if you have it all ready in a little packet like exhibit No. 32, which you can carry without anybody suspecting it, and which you can drop if anybody is not there so easily.

If you come to the conclusion he did that, and that she died of that, then he is guilty. The question of motive the Attorney-General has dealt with, and so has Sir Henry Curtis Bennett. It is usual to look for a motive in any crime; but you will never find, in such a crime as this, a motive which you or I, I hope, would think an adequate motive. That does not prove that it is not a perfectly sufficient motive for another person, a person with a criminal mind.

You have heard the defence; and I have said to you, if you have any reasonable doubt, it is your duty to acquit the prisoner. The defence is two-fold. It has not been satisfied with saying to the prosecution: "Prove your case and let the prisoner escape if there be a reasonable doubt." They have gone further and have said: "We will satisfy you"—and they have called doctors to satisfy you—"we will satisfy you how that woman died: she committed suicide." If they have satisfied you of that, of course, you will say "not guilty". But suppose they fail to satisfy you that she committed suicide, where are they? She died of arsenical poisoning undoubtedly. When was it given to her? Who gave it to her? If she did not die of suicide, but died of a dose of arsenical poisoning administered at some short time before her death, who had arsenic? Only the defendant, so far as the evidence goes. Who could have given it to her, if she did not take it herself with a view to commit suicide? Take the whole case into your consideration and say what you find.

Lord Darling's Speech in the House of Lords on the Criminal Responsibility (Trials) Bill

MY Lords, I venture to ask your Lordships to give a Second Reading to this Bill, which would alter the law in one important respect regarding trials where the insanity of the person accused is alleged. I should not have ventured to bring a matter of this importance before the Legislature but that owing to the appointment of a Committee by the late Lord Chancellor, the Earl of Birkenhead, the matter has become one which can hardly be left in the position in which it at present stands. The Committee which was appointed to inquire into this question made a Report some months ago, and I had thought that action would have been taken by some one far more capable and better entitled to address your Lordships than I can pretend to be. But nothing has been done. I feel certain that the public expects that the matter should at all events be discussed, and therefore I brought in this Bill and now move its Second Reading. I am perfectly well aware that there will be considerable opposition, and what is about to begin may develop into a pitched battle. But it has often happened that some poor *franc-tireur* has begun what has in the end become a most important victory. And I am aware that the heavy artillery is in position and will be brought to bear upon this Bill before much time has elapsed.

I may be excused for reminding your Lordships what has long been the position of persons accused, let us say, of murder, because that is the simplest case and because this excuse is very seldom alleged in cases of murder. I will therefore deal with this as though it were a case of murder in which the person is accused. The law has long been that insanity, as recognized by the law of England, entitles the accused person to escape capital punishment. The law long was—in fact, until 1883—that in such a case, if the jury came to the conclusion that the accused was insane, the verdict was "Not guilty," because the accused was insane at the time of committing the act which otherwise would have been a crime; and there-

fore the accused was ordered to be detained during His Majesty's pleasure; that is, he was sent to a lunatic asylum. By a phrase that law was altered, and one of the improvements which I desire to make (and I think no one will contest this) involves the repealing of the Statute passed in 1883. There is no need to go into why it was passed. There were no good reasons for passing it at all and no reasons were ever alleged when it went through either by your Lordships' House or the House of Commons. The law was altered in this respect: that if a person was proved to be insane the verdict was to be "Guilty of doing the act charged but insane at the time." I think your Lordships will agree that that is perfectly illogical and indefensible. To be guilty involves crime; to commit a crime involves the having of what the law calls *mens rea*, but a person who is insane has no knowledge of right and wrong, and it is absurd to say "Guilty of an act"; one might as well say "Guilty of playing cricket or football" or doing many other things which involve no crime although they are highly inconvenient very often. But this Act was passed, and one of my proposals—an innocent proposal, and one that I hope may induce your Lordships to read this Bill a second time if the rest has to be thrown over, for that can be done in Committee—is to bring back the law to what it was before this absurd Statute was passed.

I will say no more about that, but come to the more contentious part of the Bill. With regard to that, the law of England recognized that a person should be declared "Not guilty" upon indictment if insane in the sense of the law of England. My reason for bringing in this Bill is that there has long been a contest between the medical specialists and the law. These medical specialists have contended, and still contend, that directly they say that a person is insane in their sense he shall be absolutely unpunishable, no matter what crime he may have committed. Some of them call themselves determinists; some of them contend that we are merely automatic creatures, who act with no control whatever over our motives or our actions. The law of England has never recognized that, and I hope never will. But it has recognized that a person may be insane in a legal sense, and so entitled to a verdict of "Not guilty" where the act he has done, if done by a sane person, would involve a verdict of "Guilty" and a following punishment. It is so long since the law stood on this position that no doubt there must be some modification owing to modern research and recent knowledge.

Lord Hale wrote his "Pleas of the Crown" in the seventeenth century. It is a book reverenced by those who have regard and affection, which I and most lawyers possess, for the Common Law of England. The Statute Law—those may praise it who admire it! Lord Hale wrote this :

> In process of time the Common Law received a greater perfection, not by change of the Common Law, as some have thought, for that could not be but by Act of Parliament ; but men grew to greater learning, judgement and experience, and rectified the mistakes of former ages and judgements.

Lord Hale's book, which was written so long ago as that, was so esteemed then that the House of Commons, in 1680, ordered it to be printed for the benefit of those who had studied the Common Law and it has been a text-book ever since. But notice what he says. He recognizes that that has been done which is what I would ask should be further extended ; he recognizes that as men grew to greater learning, judgement and experience (most flattering to ourselves) they rectified the mistakes of former ages and judgements.

When he wrote that, what was the condition of medical knowledge ? Very different from what it is to-day. I suppose nothing has advanced more than medical learning since the time of Lord Hale down to our own days. It has advanced by leaps and bounds within the last ten or twenty years. At that time, in 1680, Harvey's discovery of the circulation of the blood was very recent. Seven years before that date Molière had just produced "*Le Médecin Malgré Lui.*" At that time the bourgeois who was told by *le médecin malgré lui* that the lungs were on the left side of the body and the heart on the right, was perfectly satisfied when the doctor said to him that it was so formerly ; "*nous avons change tout cela.*" The doctors then knew practically nothing, if I may say so, and *le médecin malgré lui* knew about as much as the most learned of them. But since that time knowledge has so advanced that things can hardly be left where they are at present.

We administer the law as it was laid down in 1843. In that year, if your Lordships will pardon me for reminding you of it, Mr. Drummond, who was Secretary to Sir Robert Peel, was murdered by a man named McNaghten, in Whitehall. McNaghten mistook Mr. Drummond for Sir Robert Peel. McNaghten was a man who

suffered from delusions. He suffered from some wrongs, as he supposed, and his delusion was that all these wrongs were caused, as he said, by the Tories. I hear some of your Lordships saying that he was not alone in that delusion. He was not; but the melancholy part of it is that in some important families of this country that particular delusion became hereditary. So MacNaghten thinking that he had a grievance against the Tories made up his mind to sacrifice Sir Robert Peel, of whose politics at that time I have not inquired. It may be that he was already merely a Peelite. At all events McNaghten made up his mind to destroy him but, by mistake, he killed Mr. Drummond, his secretary.

When McNaghten was tried he was defended by Mr. Cockburn, Q.C., afterwards Lord Chief Justice Cockburn, and, as your Lordships may suppose, he was defended in a speech of marvellous brilliance. He was acquitted on the ground of insanity, but I imagine that there was great public dissatisfaction with the result. He was found to be not guilty because insane, and yet he had killed a perfectly harmless man who had given him no provocation whatever. Thereupon an unusual thing was done. The Judges were summoned to this House. The Judges attended to consult and advise whenever the House desires their assistance. They come here by a Writ which they receive at the beginning of every Parliament. The Judges were asked then to come here and to give their opinions not upon a purely hypothetical case, though I believe they might be asked to do that, but upon this case of McNaghten. They gave their opinions, which have been embodied in the Common Law of England ever since.

One may say, of course, that they merely expressed what was the Common Law, for the Judges had no legislative authority whatever, and have not now. They expressed their opinion in certain statements which are now known as the Rules in McNaghten's Case. Whenever a Judge sums up in a case of murder, he lays down the law in the terms of the advice then given to your Lordships' House by the Judges who were summoned; I think that thirteen of them attended. The two Rules which matter are these. The jury are told to inquire whether, when he did the act which resulted in the death of the man, the defendant knew the nature and quality of the act that he was doing; and to answer this further question: Did he know that the doing of the act was wrong? If so, he is guilty.

If he did not know this, then he is not guilty on the ground that he was insane.

Now, doctors of all descriptions have quarrelled with this and have said that it takes no notice of a further possibility—that it simply deals with the intellectual qualities of a man and these are not exhaustive in the case of insanity. It is desired to add to the Rules in McNaghten's case another Rule which I venture to propose in this Bill. I had better perhaps, read the very words. It is proposed to recognize the McNaghten Rules—they are printed in the Bill—and to add this to them, that the accused is entitled to a verdict of not guilty on the ground that he was insane if, at the time the act was done or omission made which caused the death, he was suffering from such a state of mental disease as therefrom to be wholly incapable of resisting the impulse to do the act or to make the omission. That introduces what is known as the doctrine of irresistible impulse. I recognize, of course, that this is a most controversial matter.

I would point out that when McNaghten was on his trial before three Judges—Sir Nicholas Tyndal, Baron Alderson and another—Mr. Cockburn made a remark in the course of his address to the jury which I desire to read to your Lordships to show that this is no new idea, that it is not heard of in the Courts or in Parliament for the first time. This is what Mr. Cockburn said :

Modern science has incontrovertibly established that any one of these intellectual and moral functions of the mind may be subject to separate disease and thereby the man may be rendered the slave of uncontrollable impulses impelling or rather compelling him to the commission of acts such as that which has given rise to the case now under your consideration.

And he quoted from a book which I believe is of great authority ; the Lord Chancellor, I have no doubt, is acquainted with it though I have very small knowledge of it myself. It is the work of David Hume, who was a philosopher, though not, perhaps, the greatest of that name. He was David Hume who afterwards became Baron Hume, a Scottish Judge. Mr. Cockburn cited Hume's "Commentaries on the Law of Scotland," and read a good deal from the work.

I will read to your Lordships one passage only, which I take from Mr. Cockburn's speech. Baron Hume said that :

> Such is a disease as deprives the patient of the knowledge of the true aspect and position of things about him . . . and gives him up to the impulse of his own distempered fancy :

excused him, in the eyes of the law, as being an insane man. Mr. Justice Stephen, not as a Judge but in his treatise on the laws of England, laid it down that, in addition to the McNaghten Rule, this rule, which I would ask your Lordships to authorise, was already part of the law of England. That has been disputed, but he was a man of very great learning, well remembered by all who still study the law, and he laid it down as being his opinion that it was already part of the law of England.

I would venture to read, in order to show your Lordships that this view has occurred to Judges long before this Report was produced, a few more words. In Oxford's case—that was the case of a man who shot at Queen Victoria in 1840, and who was tried before Lord Denman, Chief Justice—Lord Denman said :

> A man may commit a criminal act and not be responsible. If some controlling disease was, in truth, the acting power within him which he could not resist, then he will not be responsible.

Those words used long ago are very strong. "If some controlling disease was, in truth, the acting power within him which he could not resist"—almost the very words which we desire to make the law by Statute to-day. There is complete justification, I submit, for the opinion of Mr. Justice Stephen—Sir James Stephen as he then was —when he wrote those words, the Rule was "already part of the law of England."

Now I come to much more recent times, and to near the end of what I have to say to your Lordships. I desire to read what Judges have quietly lately said upon this matter. This has not been recognized yet by the Court of Criminal Appeal as the law of England and therefore there is a necessity for a Statute. In the course of the case of Victor Jones which came before the Court of Criminal Appeal in 1910, Lord Alverstone, then Lord Chief Justice, said :

There is no need here to enter upon a disquisition as to the terms in which the question ought to be left where a person is prevented by defective mental power or mental disease from knowing the nature of his acts or controlling his conduct. It is not made out in the case that appellant was not in a condition to be aware of the nature of his act or that he was prevented from exercising self-control.

Your Lordships see that the evidence there proved that that was not his condition, but the Lord Chief Justice went on to say :

A grave responsibility will lie upon this Court whenever it shall become necessary to decide those large and important questions which have been raised in the argument.

Later, in 1915, in the Court of Criminal Appeal, Mr. Justice Bray made a pronouncement upon this subject. Mr. Justice Bray was well-known to us all in the King's Bench, of which I was proud for many years to be a Judge, as a man who had devoted himself absolutely to his profession. He was a very learned lawyer, and his opinion was accepted by those with whom he sat, or who heard it delivered, as being an opinion of very great authority. I will read to your Lordships his words in the case of the King v. Fryer, in 1915. He stated the McNaghten Rules as I have read them, and then went on to say :

That is the recognized law on the subject, but I am bound to say it does not seem to me to completely state the law as it now is, and for the purposes of to-day I am going to direct you in the way indicated by a very learned Judge (Mr. Justice Stephen) and follow his direction that if it is shown that the prisoner is in such a state of mental disease or natural mental infirmity as to deprive him of the capacity to control his actions, I think you ought to find him what the law calls him—insane—because it seems to me that if there is such a disease of the mind not caused by any accident but an actual disease of the mind such as to deprive him of the capacity of controlling his actions, in my opinion a jury should find him insane if that is shown to have existed at the time of doing the act.

It is plain from that that Mr. Justice Bray recognized that such was

the law of England, and he laid it down, in summing up to a jury, that the very thing which I ask your Lordships to declare to be the law of England by this Bill was recognized as the law of England.

Another case which I should like to read to your Lordships—and it is the last one—is the case which caused very great excitement a few years ago. It is the case of Ronald True, who was found "Guilty", after being defended on the ground that he was insane, and sentenced to death. Then there came an inquiry by the Home Secretary such as must take place—I will tell your Lordships presently a little more about that—by reason of the existence of Statutes, and he was found by medical experts to be insane. Though he had been condemned to death, the Home Secretary—Mr. Shortt, I think, was Home Secretary, and his action was very much misunderstood and unjustly criticised and condemned by people who knew nothing about the matter—had no option but to excuse this man from being sent to the gallows, and order him to be sent to a lunatic asylum, not because the verdict of the jury was wrong, but because afterwards, when he was examined, he was found to be insane.

True was tried by Mr. Justice McCardie. Mr. Justice McCardie, happily, is still a Judge of the King's Bench Division, and, as everybody recognizes, a Judge of very great learning indeed. Mr. Justice McCardie, in the trial at the Old Bailey, summing up, said this:

> Now I shall leave to you, gentlemen, a further point. I must say the case has given me much anxiety because of the conflict of opinion which has existed in the past and exists at the present time as to the law, and I shall put this point to you: that even if the prisoner knew the physical nature of the act, and that it was morally wrong and punishable by law—

your Lordships note that that specifies the two MacNaghten Rules:

> yet was he through mental disease deprived of the power of controlling his actions at the time: if "yes", then, in my view of the law, the verdict should be "Guilty but insane."

Mr. Justice McCardie laid it down that the law already is just what I am asking your Lordships to assist in declaring to be law by giving a Second Reading to this Bill. The case did not arise in the Court of

Criminal Appeal. The jury found True to be guilty, and he was sentenced to death. It is difficult to get these cases before the Court of Criminal Appeal because where a jury say "Not guilty", there is no appeal. The Crown cannot appeal, and it is therefore difficult to get a decision of the Court of Criminal Appeal on these points. But in what I have read you have the *dicta* upon this point of Lord Denman, Lord Alverstone, Mr. Justice Bray and Mr. Justice McCardie, adopting in so many words the opinion of Sir James Stephens that this is already the law of England.

The Bill seeks to provide that if it is proved that a man from a disease of the mind—and that is postulated—cannot control the act which he does, and which otherwise would be criminal, then the verdict is to be "Not guilty because insane," and the asylum follows. I would ask my noble and learned friend, Lord Sumner, who I understand is to move the rejection of this Bill, to state categorically whether he, and those who think with him, recognize that there is actually such a thing as uncontrolled impulse due to disease of the mind? If they say "No," then they are in direct conflict with practically all the medical opinions of the day. If they say "Yes," then I ask these further questions: If you recognize it, why have the man condemned? Why, if he is suffering from disease of the mind which renders him incapable of controlling his action, condemn him? Why not find that he is not guilty because he cannot control himself and send him to the proper place, the lunatic asylum? I respectfully ask my noble and learned friend to answer these questions.

I have already said that this matter was submitted to a Committee by my noble and learned friend the Earl of Birkenhead. Who were they? A Committee of greater authority upon such matters could hardly have been found. They are not psychologists. They were all practising lawyers with a good deal of experience in such matters. I will read their names. The Chairman was Mr. Justice Atkin, and I need say nothing as to his competency to investigate such a matter as this, or matters far more difficult. Then there was Sir Ernest Pollock, who was Attorney-General and is now Master of the Rolls, a man of large experience of the Criminal Court. The next was Sir Thomas Inskip, who became Solicitor-General. The next was Sir E. Marshall Hall, who has enormous experience chiefly in defending persons, often with great success. The next was Sir Herbert Stephen, a son of the great Judge, whose name I have already

mentioned, and who is well known as a man of great legal learning and very far from being a sentimentalist. In fact, I think that Mr. McNaghten would have shot him at sight as being a Tory of the most extreme description. The next was Sir Richard Muir, who was for years leading Counsel for the Crown appointed by the Public Prosecutor to prosecute at the Old Bailey and all over the country. The next was Sir Archibald Bodkin, the present Director of Criminal Prosecutions. The next was Sir Edward Troup, well known as the adviser for many years of the Home Secretary. Then there was Sir Ernley Blackwell, who succeeded Sir Edward Troup, and as a man of the greatest influence and experience in these matters.

What did they recommend? They made their Report—Sir Herbert Stephen differed on one point, but as that point is not involved in this Bill I will not refer to it further— and they said—it is on page 8.

It was established to our satisfaction that there are cases of mental disorder where the impulse to do a criminal act recurs with increasing force until it is, in fact, uncontrollable. . . . We appreciate the difficulty of distinguishing some of such cases from cases where there is no mental disease, such as criminal acts of violence or sexual offences, where the impulse at the time is actually not merely uncontrolled, but uncontrollable. The suggested Rule—

that is, the Rule I have put in this Bill—

however, postulates mental disease; and we think that it should be made clear that the law does recognize irresponsibility on the ground of insanity where the act was committed under an impulse which the prisoner was, by mental disease, in substance deprived of any power to resist.

That is the recommendation of this Committee.

Why was it appointed? Why were these men, specially competent to give an opinion, asked to investigate and give their opinion if no notice was to be taken of it? I simply ask your Lordships to declare to be the law that which they recommended should be made the law and which Judges have already declared to be the law. The Rule as I would have it—I do not want to be too long as I have spoken

long enough already—is already the law in Germany, Italy, South Africa and Queensland. Therefore in two important Dominions it is recognized as being the law and it is also recognized in two European countries as well.

There is one other matter which is mentioned in the Report, and to which I would draw attention. One of your Lordships who is sitting near to me has been Home Secretary, and must have had experience as to what happens according to Statute. As I have stated, if, after conviction, the Home Secretary has reason to believe from information brought to his notice that the prisoner is even then insane, he is bound to appoint medical experts to examine the prisoner; and if they report that he is then insane, the man must, without any further trial, be sent to a lunatic asylum. He cannot be hanged. The Committee have dealt with this matter. They say that it is absolutely necessary, and so it is. I do not desire to interfere with it in any way. But what does it involve? The jury have heard all the inquiry, they have had the summing-up according to the law and they have found the man to be guilty, and yet there must be an inquiry afterwards at the instance of the Home Secretary, in very many cases—in every case which excites much public attention—and the trial then, whether he is insane or not, takes place *in camera* before two or three medical experts. If they say the man is insane, he cannot be hanged.

This Report recognizes that they go into the whole trial, that they consider, not only the questions which they put to the man and his answers, but also that which happened at the trial, and they come to an opinion which obliges the Home Secretary to say that the man must not pay the ordinary penalty of his crime. Why do they do it? They do it because they are allowed to introduce into their inquiry that which I desire to have introduced at the trial. They do it because they extend their inquiry beyond the Rules in the McNaghten Case. I would ask what is the position. How is that logical or possible to defend? Suppose the question were: "Is the man an educated man?" That has to be tried and tested, and you empanel a jury in a court of law and ask them if the man is educated. That is the question as to which the jury has to say "Yes" or "No". The Judge would say: "You will consider whether he can read, and you will consider whether he can write." That is like the two Rules in the McNaghten Case. The Judge will go on to say: "If

he can write, and if he can read, you will say that he is an educated man; if he can neither read nor write you will say that he is not an educated man." Supposing the jury said: "He can read and he can write, and we find him to be an educated man," what happens next? There comes a further tribunal who, in a room alone, consider the further question whether he can do sums, whether he understands arithmetic or, it may be, algebra, and if he does not they reverse the finding of the jury and say that he is not an educated man. "He can read and he can write," they say, "and the jury in their darkness find that he is an educated man; but we know better. He cannot do sums, and therefore he is not an educated man." Is not the case a precisely parallel one? What can one say of such logic as that?

I have only a word or two more to add. I am at the disadvantage of everyone who opens a case, because I do not know what the objections will be, but I have a notion that many people object for some such reason as this. They say: "If you pass a Rule like this, it will enable practically everybody to escape; juries will take advantage of this Rule to say that the man is insane." I am bound to say that this supposition does not appeal to me. For fifty years I have been in the practice of the law, and for twenty-six years I was a Judge of the King's Bench. I have therefore seen many juries and had to do with many trials, and it may surprise some people to know that I believe in trial by Judge and jury. A member of your Lordships' House took as his motto (and the family bear it still) the words "Trial by jury." It is not trial by jury exactly, it is trial by Judge and jury. I would not trust juries to decide this or any other important question unless they receive proper and adequate direction upon points of law, but where they receive proper and adequate direction upon points of law, such as they are sure to get, then I believe that juries are—I will not say certain, but as sure as we can make sure of things in ordinary human affairs—to come to a right verdict which satisfies the public conscience.

Law is not an exact science—it is not like chemistry—but if it satisfies the conscience of the public, then I think the law does its duty, and I do not believe that juries are not to be trusted in this matter when they are trusted in so many other matters. People say that they will act according to their temperament. It was written by Mr. Wordsworth, who had studied the matter from Westminster

Bridge, that the river which washes the walls of this House "glideth at his own sweet will," and many people seem to think that juries have the freedom of the Thames in flood. But they have not. The stream of English justice has long been canalised and directed and controlled, and while it is so directed and controlled I believe that this power may as safely be entrusted to the juries of England as the power which they now have. I thank your Lordships for listening to a too-long speech, but it is an important question, and I trust that your Lordships may at all events allow this Bill to be read a second time.

Lord Darling's Maiden Speech in the House of Lords.

LORD DARLING: My Lords, I ask for the indulgence of the House in addressing it for the first time, and, seeing how late I have arrived here, it may well be the last time. I would not venture to say a word upon the introduction of this Bill but that it does deal with matters which came before me, as a Judge of the King's Bench, during a very long period of time, and I think perhaps your Lordships might like to hear what I have to say upon one of two points. Possibly what I say may be of some assistance. I would notice first Clause 9, which goes to extend the jurisdiction of the quarter sessions. For a long time now Bills have been passed rendering it possible for cases to be dealt with at quarter sessions which otherwise could only be dealt with at assizes. This has been, I think, greatly occasioned by the many and exacting duties of the Judges of the King's Bench, who have to get through the work in London—people always complain if it is in the least delayed—and also have to go to assizes to every county town in England and Wales.

It is natural, therefore, that cases should be sent to the quarter sessions; but I think before much is done to extend this practice it would be well to consider whether, in all cases, those who preside at quarter sessions are in every way fitted to deal with those cases which are sent before them. No one arrives on the Bench of the King's Bench without a very long apprenticeship in the hearing and trial of criminal cases. Those who preside at quarter sessions have not always had the qualifications and the training of a barrister. There are, of course, many Chairmen of Quarter Sessions distinguished by their learning and practice of the law. Unless I am mistaken, the noble and learned Lord President of the Council is, or was a Chairman of Quarter Sessions.

LORD PARMOOR: Is.

LORD DARLING: And I think the noble and learned Viscount who very lately spoke, and who was lately Lord Chancellor, acted for a long time as Chairman of Quarter Sessions. But these instances do not prove that it is always the case. A Chairman of Quarter Sessions is elected by the justices, and I desired to ask the Lord

Chancellor, but I had not the opportunity, whether it is the case that he does not have to agree to their presiding in Criminal Courts, as he does in some other courts where an officer is elected to try very important cases. If the trial of criminal business is to be extended, then it would be well to take definite means to secure that in every case a Chairman exercising criminal jurisdiction at quarter sessions should have had the training and practice of a barrister.

The present position has grown up almost by accident. Chairmen of course, have the duties to perform, which they do perform most admirably, of county business, but the Chairman for criminal business may well be separate, and I think there would be no difficulty in getting the services of men in large practice at the Bar. I think there would be no difficulty in getting them to give their services, although I think it would be worth while even to remunerate them to some extent, in order that they should preside at the trial of criminal cases at the quarter sessions. I would not have ventured to make these remarks except that, having been, from the time when the Criminal Appeal Court began its work, often a member of that Court, I have naturally seen the summings-up and, in fact, the whole proceedings at the trial sent up to that Court from the quarter sessions when there has been an appeal; and it is not natural to expect that anyone who sits once in three months to try criminal cases should try them—I think I might fairly say—as well as someone who is constantly engaged in that or analogous work.

The difficulty in trying a criminal case is not simply in passing sentence, and, if it were, that would not matter so much, because there is an appeal upon the sentence, and upon the conviction, too—an appeal from quarter sessions to the Court of Criminal Appeal. The difficulty is in understanding and applying correctly, and on the moment, the rather complicated but, I think, excellent rules of evidence, as they apply in our Courts, and—most difficult of all—in summing-up, summing-up so as to present properly and adequately the case for the prosecution and the case for the defence. And there is nothing in which the Court of Criminal Appeal has been more strict than in insisting that both sides shall be fairly put before the jury when the Judge or Chairman of Quarter Sessions sums up a case. It has happened, though we prevent it whenever we can, that, in cases where the prisoner was undoubtedly guilty and had been convicted, the conviction had to be quashed because of some defect,

owing merely to inexperience, in putting the defence before the jury as a Judge of Assize would have put it.

A small matter upon which I should like to speak, and to which the Lord Chancellor has already alluded, is the question of sketching and taking photographs in Court. To my mind this practice of publishing in the newspapers sketches of people who happen to be involved in litigation has done a very great deal of harm. Whether the provision in the Bill goes quite far enough in preventing it, I do not know. There was a dreadful case some time ago, in which a photograph was taken at the Old Bailey of a Judge passing sentence of death. That photograph was published—a most shocking thing to have taken, or to have published, dreadful for the Judge, dreadful for everybody concerned in the case. Of course, the Judge knew nothing of it, could not do anything to prevent it, and could not punish the person who had done it. Sketching with a view to publication may require a little consideration, because I well remember a learned counsel who became a Law Officer of the Crown, and I very much doubt whether he would have reached that position if he had not been an almost inimitable draftsman and had not published—in the strict legal sense of the word "publish"—the sketches which he often took in Court, and very often gave to the Judge.

One other matter upon which I should like to say a word is the alteration of the law with regard to the case of a husband and wife jointly charged with a crime. The noble and learned Viscount on the Woolsack mentioned that this has been brought about by a case recently tried. I think—in fact, I feel sure—that he alluded to a case which I myself heard, and in which a point was taken on behalf of the woman that, whatever the evidence might be, whether it did or did not prove the offence, the Judge must not leave the case to the jury, because it is a presumption of law, as distinguished from a presumption of fact, that if a woman commits a crime and her husband is present, she committed it solely by his instigation and under his coercion. Much ridicule has been poured on this rule. I think when it was established, and for a long time, it was a very good rule indeed. Women are not now in the position in which for a long time they were—whether they will regret it in the long run I do not know. But when a rule was made in the Middle Ages a wife was, in some respects, little better than a chattel belonging to her

husband, and it was quite reasonable, having regard to the manners of the time, that if a man was present when a woman took part in a crime or committed it, the law should say "She shall not be tried; he domineers over her in all the affairs of life, and we must presume that he coerced her by his dominance on this occasion."

And I think perhaps there was another and a softer reason. In those days and, in fact, to the end of the eighteenth century, punishment was dreadfully severe. Capital punishment was awarded for crimes which are now dealt with by the justices, and dealt with very leniently, and I think that the reason why this was not altered long ago was that there was an instinctive dislike—I felt it myself, felt it for years and years—to punishing a woman at all, and it was because to punish her as severely as the old law necessitated must have revolted the feelings of the Judges, that this rule remained. But now things are changed and all that this provision would do is this: it would say that, instead of its being a presumption of law that a woman who participates with her husband in a crime, where he is present, is entitled to instant acquittal, instead of going to the jury, if the point be taken, it shall be a question of fact; and, if all the evidence in the case satisfies the jury, that she was not a free agent, or if she can prove that the crime that she committed was a crime dictated to her by her husband, to which she was coerced, then he must be convicted, and she must be acquitted. I apologise for having spoken so long, but I thought I might fairly bring these points to your notice.

APPENDIX

APPENDIX

MR. DARLING'S speech to his constituents in South Hackney on June 12th, 1886, when he opened his campaign for the second time in this Division. The speech is given here almost fully, as it represents a highly important step in his political career, notwithstanding the fact that he was defeated at the poll by Sir Charles Russell, the Home Rule Candidate. The meeting was at the Clapton Park Theatre and provoked extraordinary enthusiasm, owing to the split in the Liberal Party on the question of Home Rule, and the speaker's able exposition of the situation.

Mr. Darling said : It gives me very great pleasure to be able to come amongst you once more, and to take part in the most momentous events which the next few weeks must see happen. There were many questions of importance before you when you did me the honour to accept me as your candidate at the late election, but they were as nothing compared with the matter upon which you now have to express your opinion ; and in coming forward for this division I may say I come forward not merely as a candidate holding Conservative opinions, but I come forward as a candidate seeking for, and certain to receive—for I have had the assurance of it—the support of those Liberals who are in favour of the union of these kingdoms. On the other side there may be many who are conscientiously convinced it would be better for these kingdoms to be split in pieces than to be united, but as far as there are any people with votes in this constituency who are to maintain the union as it exists at present, and care to have it modified—not, indeed, the union modified, but the relations between the two countries modified—there seems only this to contemplate. On the one side there is a government of which Sir Charles Russell is a member, which would split the empire to pieces—and on the other there are those, some Conservatives, some Liberals, and some Radicals, but all of them men who agree that not only is it their duty to maintain the union as it at present exists, but to give to Ireland some wide form of local government.

For my own part I have been of that opinion for a long time, and that was the opinion expressed by Mr. Gladsone in his manifesto, and something in the way of local government Lord Salisbury has perfectly consented to. But in the manifesto which spoke of local government for England, Wales, and Scotland, there was not one word about repealing the union or setting up a Parliament on College Green, with the power to pass such laws as they pleased; and there was not one word about shutting the Irish members out of the Parliament of the United Kingdom. And, therefore, I say I come forward, and I more represent the views of Liberals as they were when I stood here last, upon that question, than Sir Charles Russell does. And let me say—and I desire the Liberals to know it—if there had been no questions before the country but those questions which were before it when I stood, and was defeated in this Division, I would not have come forward again. There has been an election since then. I did not choose and I did not care to come forward on that occasion for this reason. The topics that Mr. Russell and I differ about had been discussed in the face of this constituency within a very few weeks of that time, and the constitutency had made up its mind about them, and I did not think the prospect of getting the constituency to reverse that verdict made it worth while to plunge them into a fresh election, and I did not come forward. And if things had remained the same—although seven months have now elapsed—if things had remained the same I would again have let the constituency choose, if it liked, Sir Charles Russell, without opposition from me. But things are not the same. Since that time there has been sprung upon the country a programme which is denounced not only by members of the Conservative Party but also by men in the Liberal camp, against whose record in connection with that party there cannot be one word spoken. And I think if there be a man who has any kind of knowledge of this constituency, who has any kind of following in the constituency, and a man who has made an enemy in the constituency even amongst the Liberals—I think it is his duty to come forward to fight the battle for the unity of the Empire, and that is why I come forward, and I ask for the support not only of those who supported me last time—of that support I am sure your exertions last time are enough to convince me—but I also come forward on behalf of those in the Liberal ranks whose opinions would not be expressed unless a candidate holding

such opinions as I hold came forward. I say now that I hold opinions that are held by members of the Liberal Party who must have a following in this constituency. Has Lord Hartington no following among the Liberals of South Hackney? Is not Mr. Bright a man still looked up to? Is not Mr. Chamberlain's opinion worth something? I say yes, and if anyone has read his manifesto just published they will see that Mr. Chamberlain is an uncompromising supporter of the union of this country with Ireland. Sir Henry James was a man whose name was used to conjure with when Sir Charles Russell stood here against me. As to Mr. Chamberlain, he was on the platform with him and so was Mr. Morley, so was Mr. Labouchere. But now Sir Henry James and Mr. Chamberlain are against this policy, they have voted against it, and they belong to the Unionist Liberals, and amongst others will go to the country against it. Then there is Mr. Spurgeon who has been a Liberal all his life, and he says that it is madness to introduce such a bill as this. The man who says that, expresses the opinion that the right hon. gentleman who introduced the bill is not in his senses—and I think you will agree with him when you see a person in the opinion of many reasonable and calm-minded men entering upon a programme more fit for Bethlehem Hospital than the House of Commons. I think it my duty, and the duty of any man who cares for the good of the country, to come forward and to do his best to prevent that programme from becoming law. Mr. Bright has said much the same thing, because he said if it were not for Mr. Gladstone presenting this bill, if it was laid down without his name to it, there would not be twenty men in the House of Commons outside of the Irish party who would support it. Will any gentleman stand up and accuse men like Lord Hartington, Mr. Chamberlain, Mr. Bright, Mr. Spurgeon, Mr. Courtney, Mr. Trevelyan, Mr. Goschen and Sir Henry James, with not being in their right senses? It won't do either to accuse anyone who comes before you and differs from the opinion of Mr. Gladstone of coming forward as belonging to the party which has opposed Sir Charles Russell before. I would not have come forward in the constituency if things had remained as they were, Nothing would have brought me forward but the question which will rally men of every party in every village up and down the country and cause them to stand up in favour of preserving the Union. There will be Liberal Unionists and there will be Unionist Conservatives come forward at the next election, and wherever these men stand

and their seats are threatened by those whose one object is the disruption of this Empire, any party which respects itself and cares for the country it lives in, and wants to see it prosperous, will not oppose any Unionist candidate, but if he has the courage of his opinions he will vote for him, no matter what side of politics he may take on other and less important subjects. Mark you, if I am returned for this constituency, and let there be no doubt about it, if, I say, I am returned, and this Irish question comes forward for settlement, and it is to be settled upon lines which maintain the supremacy of the Crown, of Parliament, and the union of these countries, you had better know before you accept me as your candidate I shall vote for that policy, no matter what Government it may be that is in power. Whether it be that Lord Salisbury is in power, Lord Hartington is in power, or Mr. Chamberlain is in power, if that is the policy of the Government, if that be the Government Bill, I shall vote for it although I find the lobby in which I vote half full of those who, upon other questions, may call themselves Radicals. And when the Union is saved, and when the English parties have time to turn to the contemplation of their domestic affairs again, if there should then be in this constituency a difference of opinion between me and the electors upon other matters, I will let the constituency speak again as to whether I should go back to Westminster or not. I have mentioned certain statesmen who do not approve of the disruption of the Union—let me mention one or two who do. First there is Mr. Gladstone—for Mr. Gladstone entirely approves altogether of anything that Mr. Gladstone does. He has sat down and he has written —I hope everybody will read Mr. Chamberlain's manifesto because it proves this—Mr. Gladstone sat down to write a Bill contrary in every respect to what he announced in his Midlothian campaign, but local government is now set on one side, and not one word said about it—he simply puts it on one side and says to his Cabinet: "I am going to bring in a Bill." Mr. Chamberlain tells us that he and others wanted to see the Bill that was going to be brought in. But Mr. Gladstone said: "You wait, and when it is ready I will show it to you." Mr. Chamberlain has told us, of course, he naturally assumed when it was brought in at all events it would be laid upon the table of the Cabinet and if they could not agree with it they could alter it. Not so, however, for when it was put down it was put down as a proposition of Mr. Gladstone which must be swallowed whole or not

at all. In consequence, Mr. Trevelyan left the Cabinet, Mr. Chamberlain and others also left the Cabinet—they left Mr. Gladstone just as Mr. Stephenson had left Sir Charles Russell. It is no good saying the Bill does not lead to the disruption of the Empire. I say it does. And not only I say it does, but much more eminent men say the same. Mr. Stephenson says it does and Mr. Bright says it does, and they gave up place and they gave up position and they gave up income and everything that a man would stay in office for because they were certain that the Bill does what numbers will try to persuade us during the next few weeks it does not do. But who accepts the Bill? (A voice: "No one!") I beg your pardon, Mr. Parnell does. Well, he told us before what sort of thing he would accept. Mr. Parnell told us he would not take off his coat to simply redress the wrongs of Ireland as to land. He told us what he would take off his coat for and what he would accept, and it was some measure which would break the last link between England and Ireland. Now I know since then Mr. Parnell has said he did not say that, although he never said in Ireland he did not say it. He said in the House of Commons he did not say it, but unfortunately for him there was a reporter present, and the reporter took it down and it was published in the paper of the National League—not a Tory paper, but in the paper of the National League—that Mr. Parnell said that, and he never contradicted it until it was convenient to contradict it in the House of Commons, when he contradicted it for a purpose, and when he wanted to say he would accept Mr. Gladstone's Bill. I say why does he accept it? Because he knows that Bill would answer his purpose. He knows that he cannot expect to see on an Act of Parliament the words: "Whereas it is expedient to dissolve the last link and to sever England from Ireland, be it enacted, etc." But Mr. Parnell has read the Bill brought in by Mr. Gladstone and seen it would be impossible for the English to remain connected with Ireland upon terms like that; that it would be impossible to work the measure so that England would be connected with Ireland for a single year after it had passed into law, and, therefore, he says he will accept the Bill, for if it does not say it will dissolve the last link between England and Ireland, it is wholly incompatible with the existence of that link for any length of time. Mr. Davitt let us into the secret when he said: "I will take it for breakfast; but when I have had my breakfast I shall then want some dinner, and when

I have had that I shall want some supper. This is not going to satisfy us—it is not going to satisfy Ireland." Then what nonsense it is to go on with the thing at all. Mr. Davitt's breakfast is a very interesting topic. Mr. Davitt has been supplied with excellent breakfasts by His Majesty's Government, and dinners and suppers and a nice bed, too, and Mr. Davitt seems to have got to like the fare so much that he wants some more of it, and is going to have this Government provision for breakfast, and then ask them for a little supper. You know that shows us at once that when Mr. Parnell accepts the Bill he simply jockeys the English people and he takes them in ; he tells them it is final ; he says they won't want any more, and directly the Bill is passed the agitation will commence again, for Mr. Davitt will ask for his lunch, and if he does not get it what will happen ? I will turn to Mr. John Morley—Sir Charles Russell's intimate friend—to answer that. He says in effect : "I advise you to give them whatever they want, because if you do not they will set to work with dynamite." Now, gentlemen, one man has spoken out like an Englishman on this matter, and that is Mr. Goschen. He says : "We are not to be frightened, and if Mr. Parnell and his gang choose to set our houses on fire, Captain Shaw will put them out, and if they mean to assassinate us as they did Lord Frederick Cavendish—why, we will make our wills and do out duty." Well, now gentlemen, I know you are perfectly safe if you stand as Radical disruptionist candidates, because the Tory Party and the Liberal Unionists don't knife their opponents ; but there is a danger in coming forward in any other capacity. We are told it by those people themselves, and therefore anyone who comes forward now as a Unionist, had better make his will before he sets to work to do his duty. Well, I have made mine. I adhere to the statement that I have made my will ; I have also insured my house, and without one other thought of Mr. Morley and his active friends, I am going to do my duty and go on with this contest, come what will. I have known enough of Englishmen to be aware that not one man will be deterred from voting according to his conscience, and not one man will be deterred from coming forward and standing as a candidate, if his conscience tells him to do so, on account of what will happen to him. We have tried to live on good terms with our Irish neighbours, we have put up with a good deal, and we have done a good deal for them to redress their grievances. Several times Mr.

Gladstone has taken away what he has told us was the last remaining grievance of that country, and now he tells us he would do so again, and, because the Bill has not passed, the Irish have taken to threatening. I think they will find that they have threatened the wrong men when they talk with threats to the English people, and they will only cause them to present a firm front and to see no doubt that justice is done to Ireland, but to see that it is justice, and nothing more and nothing less. . . . Here we are then, face to face with the measure. We are asked to pass it and told if we do not it will be worse for us. Now when that measure was drawn up, Mr. Gladstone had a consultation with one man, and only one, on the subject, and that man was not in his Cabinet. Mr. Parnell was the only man consulted. If a measure of that sort, drawn by these men, is proposed to us, how can they expect for a moment it will meet with our acceptance? It cannot be accepted. I, perhaps, address here some working-men, or those who talk to them and are able to put subjects before them, and I would have them know if this Bill is entertained, for one thing it will lay an enormous burden upon the country if nothing else, and anyone who pays taxes must feel its effects. Mr. Parnell had told us in black and white that he wishes to get such a Parliament for Ireland as shall enable him to put a protective duty upon English imports into Ireland. I dare say Mr. Parnell will wish to deny that. But we read in his own account of the interview he had with Lord Carnarvon this: "I took occasion to remark that protection for certain Irish industries against English and foreign competition would be absolutely necessary, upon which Lord Carnarvon said 'I quite agree with you, but what a row there will be about it in England.'" Lord Carnarvon does not agree with Mr. Parnell as to what passed, and Lord Carnarvon did not say, if he is to be believed, what Mr. Parnell represented he did. I never yet heard any man say that Lord Carnarvon did not tell the truth. Mr. Parnell, you can judge of yourselves, when you see he is convicted by his own reporter; and when a man is so unreliable that his own reporter contradicts him, I would not take his word if he is contradicted by a man like Lord Carnarvon. But if Lord Carnarvon did say: "What a row there will be in England about the Bill if it passes," I can quite agree with him in that respect. If any Government attempted to put a duty upon English industries imported into Ireland no matter

what that Government might be if I were in the House of Commons, I should vote against it, and if that Government was Liberal or Tory I should do my best to turn it out. One thing we are certain of, whatever anybody else said, we have got Mr. Parnell's own word for this, and he admits what he did demand, "I took occasion to remark," he says, "that protection for certain Irish industries against English and foreign competition would be absolutely necessary." Now, I ask the working-men of England, who are not supposed at present to be overburdened with work, whether they will agree to this. Trade is bad enough, everyone knows, without this. When Mr. Gladstone, too, speaks of England he calls it a foreign country, and his explanation of the dislike which the Irish have for the Ten Commandments is that they are foreign laws. These laws, he tells us, were brought over from England ; but I would remind you that they were not originated in England—the laws that a man shall not murder, steal, and bear false witness in courts of justice were not created in England, and if they came in a foreign garb to Ireland they came in the same foreign garb here and to Scotland and Wales. Mr. Parnell wishes there should be no mistake, and he says it is absolutely necessary. Irish industries should be protected against foreign competition. People will say, of course, he does not mean English competition, but he takes care to say, in another place, "against foreign and English competition." Just let the people think over that. The markets open to us are few enough. Hitherto we have been trying to throw open further markets. But here Mr. Parnell and his ally set to work upon a measure which will enable Mr. Parnell to impose a duty upon English manufactures imported into Ireland. Parnell thinks it is absolutely necessary if you make anything here and want to sell it in Ireland that he and his Parliament should be able to stop you, while they would put a bounty on Irish goods, so that they could send them into our markets. When he has done that there will be a further difficulty. When they have subsidised their Irish manufactures out of the taxes they collect, they will pay the people to make goods in Ireland cheap to compete with the people of England. But do you think the Irish people will pay tribute to England ? According to the Bill they are to send us £4,000,000 a year, but we are not to be allowed to collect it ourselves. They are to have the collecting of it. Now don't you picture Mr. Parnell and Mr. Healey and all those men going round

and ordering the Irish taxpayer to pay the money which was going to be sent to England! He would say, I will pay you that when I pay my rent. Therefore you may make up your minds to it, you never would have that £4,000,000 a year. You, therefore, would have to raise from the taxpayers of this country £4,000,000 a year more, because the Irish would not pay any of the taxes, and at the same time your trade would be diminished, because you are not allowed to trade with Ireland. In the next place you would have to find an immediate sum of £50,000,000 to buy out the Irish landlords, and you would have to find £150,000,000 afterwards. Now imagine that. There is no doubt about the figures—they are in the Bill. If there was doubt, there is not now, for Mr. Chamberlain was in the Cabinet at the time the Bill was introduced. £50,000,000 is asked for at once, and Mr. Chamberlain tells us a further figure of £150,000,000 would have to be found. £200,000,000 the British taxpayer has to find to gratify Mr. Parnell. Sir Charles Russell voted for that Bill. The friend of the working-men of Hackney voted in favour of making them pay that, and, at the same time, it is obvious all they will get for it is the knowledge that they have put in power a man who says it is absolutely necessary to impose a duty on English manufactures going into Ireland. There is another question beyond that. These men have been described by Mr. Gladstone himself as men who march through rapine to the dismemberment of the Empire. I call it rapine to take £200,000,000 of our money. That is marching through rapine to the dismemberment of the Empire, although Mr. Gladstone has not chosen to apply the term. Beyond the £200,000,000 you will have to find a further sum of money. The Irish judges, policemen, and executive of every class are to be pensioned off at the expense of us, because Mr. Gladstone says those who come next into power will have uneasy relations with this class. It means that they have been put in gaol by Mr. Gladstone himself, and that the judges and the policemen helped to put them there, and when their turn comes they mean to make it hot for those judges; and that, because they do mean to make it hot, the English must pay the pensions to all those people and let Mr. Parnell appoint Mr. Healey, I suppose, Chief Justice in Ireland, and let Mr. Davitt be a head policeman—set a thief to catch a thief. Well, I say, this is a little too strong. We can stand a good deal in England, but to pay £200,000,000 and to pay £4,500,000 a year besides, and to have

your trade penalised by the land you protect, which disowns you, whilst it admits goods from France and America duty free, and to be asked really to do it all ourselves, with our eyes open, I say it is too good a joke, it is madness, it is nothing else. Beyond all that there is this: we are told that Ireland wants this Bill. Mr. Gladstone said—and I am sure that Liberals almost wept as he said it—Ireland stands a suppliant at your bar. Well, Ireland sups at many bars, but Ireland has not with one united voice asked Mr. Gladstone to stand her anything. Directly the cup that Mr. Gladstone offered was dashed by Englishmen, Ireland, or a great part of it, rose up in joy. Ulster, the best part of Ireland, Ulster, the settlement of the greatest Nonconformist that England ever produced—Cromwell—Ulster still protested against the measure, and rejoiced at its rejection. Ulster said plainly that rather than submit to the bog-trotters of the south, she would revolt. And how was that threat met, by no one more than by Sir Charles Russell and his friends, with jeers and sneering, and suggestions that they had said it before, but they did not mean to fight and dared not fight. That was their style of speaking; and this very day many Ulstermen are being carried to their graves because they ventured to protest against this Bill with no doubt unnecessary warmth, and rejoiced over its defeat with lamentable confusion. But when it is contemplated to do an injustice to any nation, the man must be mad who thinks that disturbances will not occur in the streets when the nation rejoices that its enemies are defeated. Do not think for a moment that I defend any Protestant who, because the Bill was defeated, went and hooted the Catholics and defeated them; do not think, I say, the police were not perfectly right in shooting down as they did the people of Ulster, and in trying to preserve order, for order must be preserved in Ireland and anywhere else. But I do say, I regret to find men in high positions jeering at the Ulster Protestants, and reminding them they said they would rise in arms before, and treating their threats as the mere idle vapourings of men who wanted to make a noise in the world. To jeer at a people like that, is to provoke them, and if they had had no provocation, you and I might not have to lament the loss of life which has taken place in Belfast, for the riots which the police have suppressed are partially due to those who jeered and sneered, and dared them on. It was only when the Protestants of Ulster found they were not

to be handed over to their hereditary enemies, that they engaged in some sort of jubilation, which proves that Ireland has not, with one voice, asked Mr. Gladstone to allow Mr. Parnell to govern it. Let him go and govern the estate that has been given to him. When you speak of Ireland it is nonsense to say you do not mean Ulster as well as the other parts of the country, for if you do not mean Ulster you omit the most important and the most flourishing part of Ireland. Ulster does not want what Mr. Parnell calls Home Rule, but wants to be governed, as it has been governed in the past, by the Imperial Parliament, and those who do not want her governed in that way mean to do her harm. It is said the people are the best judges of what is good for themselves. And what do the people of Ulster say? What are the views of Ulster on the subject? They say rather than submit to Mr. Parnell and his allies they will be shot down in the streets. I can hardly imagine how, in a meeting of Englishmen of the faith Englishmen usually hold, it can be contemplated to pass that Bill for Ireland. If you get over the loss of £200,000,000, the enormous pensioning you would have to do, and the loss to your trade—if you got over all that I cannot imagine that Englishmen, of whatever party, holding the prevailing religious faith of Englishmen could consent to pass a Bill against which the voice of Ulster has been expressed so loudly. I cannot imagine English Protestants deserting those Irishmen of their own blood and of their own faith. I can imagine a man who is neither an Englishman nor a Protestant could do it and feel no pain. A man's opinion upon any matter, especially any religious matter, is a private concern of his own, but we all know that in Ireland there are two camps, and I say I cannot conceive how an Englishman and a Protestant could vote for putting Ulster under the heels of the Catholics of Ireland. If a man being not an Englishman and not a Protestant, but being an Irishman and a Roman Catholic, votes for it, the explanation is simple enough. But, gentlemen, we are now to revise that vote. We are now, whatever may be our party politics, to decide this great question, among others: Is Ulster, with all that Ulster means, with all that it means as to industries, with all that it means as to religious sympathy with us, to be handed over as Sir Charles Russell voted that it should be, to the Catholics of the South? Let it at all events be our pride in years

to come, whatever may be the result, that we would not stand silently by and see such an iniquity as that perpetrated; let us stand shoulder to shoulder with all of those who are inclined to say there shall be no interference with the integrity of the realm of England; there shall be no interference with the power of Parliament; there shall be no interference with its authority over all the countries subject to the Queen; and there shall be no possibility of doing an injustice to those who by the attempt are placed in a position of difficulty and danger—there shall be no injustice done to them by their enemies while the Union Jack is still untorn.

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